Model Program Operation Manual for Business Enterprise Program Supervisors

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Preface

The need for a standardized Randolph-Sheppard program operation manual for use by State Licensing Agencies (SLAs) throughout the country has long existed. Each SLA differs widely in terms of the structure and make-up of its Business Enterprise Program (BEP) and the program operation manual used by the SLA to administer the program. Some provide highly detailed, step-by-step instructions while others proffer broad policy statements and guidance material. It is not the intent of these authors to offer definitive guidance or direction on the wide ranging issues discussed herein, but simply to provide a model and/or resource for rehabilitation agencies and Business Enterprise Program personnel to consider in improving their own Randolph-Sheppard programs.

The authors are very much indebted to those Vocational Rehabilitation (VR) agencies who made their manuals readily available as resource material. We are particularly indebted to the California Department of Rehabilitation, the Connecticut Board of Education and Services for the Blind, the Hawaii Services for the Blind Branch, the Mississippi Office of Vocational Rehabilitation for the Blind, the Missouri Rehabilitation Services for the Blind, Nebraska Services for the Visually Impaired, the Nevada Bureau of Services to the Blind, the New Jersey Commission for the Blind, the Texas Commission for the Blind, and the West Virginia Research and Training Center. We are particularly grateful to the National Council of State Agencies for the Blind (NCSAB) Randolph-Sheppard Committee for their comments and suggestions and to Chet Avery, George Arsnow, Suzette Haynes, and Diana Koreski with the Rehabilitation Services Administration (RSA) and Robert Marcus with the General Services Administration (GSA) for their comments and recommendations on earlier drafts of this document. We have drawn from a wide variety of resource material and encourage the reader to contact us if they have questions or need additional information regarding reference material used herein.

Each SLA needs to carefully evaluate the material contained herein to ensure that it does not conflict with state statutes or "mini" Randolph-Sheppard laws, policies or practices in their particular states. Each SLA obviously operates slightly differently and may very well have more (or less) stringent guidelines in place governing its Business Enterprise Program. SLAs should feel free to duplicate and/or utilize this material as they see fit in improving their own BEP operation manuals.

The reader will note that several terms are used interchangeably herein to describe the blind vendor including vending operator, facility operator, and facility manager. SLAs are encouraged to use the more contemporary of these terms (i.e., facility manager), albeit the statute and implementing Federal regulations still refer to "blind vendor."

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Table of Contents

Chapter 1

Legal Background of the Business Enterprise Program

1.1 Randolph-Sheppard Act

The Business Enterprise Program (BEP) for persons who are blind, as we know it today, was authorized by the Randolph-Sheppard Act of 1936 (20 U.S.C. Section 107 *et*. *seq*.). The law locates the State Licensing Agency (SLA) for the program in the individual state and territorial agencies which offers vocational rehabilitation (VR) services for individuals who are blind. The vending facility program provides persons who are blind with remunerative employment and self-support through the operation of vending facilities on federal and other property. When enacted in 1936, the program was intended to enhance employment opportunities for trained, licensed persons who are legally blind to operate facilities. At the outset, sundry stands (i.e., facilities) were placed in lobbies of federal office buildings and Post Offices. The law was subsequently amended in 1954 to provide a preference for individuals who are blind and to include assignment of income from automatic vending machines. In 1974, the law was amended to ultimately ensure persons who are blind a "priority" in the operation of vending facilities which mainly include cafeterias, snack bars, automatic vending machines, and sundry (or "dry") stands, but may include greeting card shops, gift shops, and "fast food" facilities (U.S. Department of Education [USDE], 1988).

1.2 Statutory Authority

Statutory authority for administration of the Randolph-Sheppard program is contained in two pieces of legislation (i.e., the Randolph-Sheppard Act, as amended [20 U.S.C. 107 *et*. *seq*.], and the Rehabilitation Act of 1973, as amended [29 U.S.C. 701 *et*. *seq*.]). The primary regulatory guidelines governing the Randolph-Sheppard program are contained in 34 CFR Part 395. Part 395 focuses primarily on responsibilities of the SLA and on federal property management issues. Other regulatory guidelines which also impact the Randolph-Sheppard program are contained in 34 CFR Part 361 which governs the state vocational rehabilitation service delivery program. More specifically, the most applicable regulatory guidelines can be found in 34 CFR 361.50 (scope of state unit program; management services and supervision for small business enterprises for individuals with severe handicaps); and 34 CFR 361.72 (management services and supervision for small business enterprises for individuals with severe handicaps). The latter regulation (34 CFR 361.72) essentially authorizes the SLA to utilize Section 110 funds in providing management services to BEP facility operators. (The Congress does not appropriate funds under the Randolph-Sheppard Act to administer the BEP.)

Program instructions from the Rehabilitation Services Administration (RSA) require that each SLA develop rules and regulations governing the implementation of the Randolph-Sheppard Act in its state. The rules and regulations, and any amendments, must be filed or published in such a way that they are given full force and effect of state law (RSA-PI-78-14, 1978). Additional guidance material can be found in Chapter 3015 of the *RSA Manual for Randolph-Sheppard/Vending Facility Program Policy* (RSA, 1992) which is contained in RSA Manual Transmittal (RSA-MT-92-13), dated January 28, 1992.

1.3 "Mini" Randolph-Sheppard Acts

Most states have "mini" Randolph-Sheppard Acts which entitle trained licensed persons who are legally blind (managers) the same opportunities under state law that they have under federal law. They give licensed managers first priority managing facilities in state buildings. Laws vary from state to state, but pertinent state laws which affect the BEP facilities should be summarized in a state's program operations manual.

Chapter 2

History of the Business Enterprise Program

2.1 Events Leading to the Randolph-Sheppard Act of 1936

Before passage of the Randolph-Sheppard Act in 1936, programs for persons who were blind usually were limited to that of a college education and a professional career or a sheltered workshop for those with limited capabilities. Blind individuals between those two extremes--the highly competent and the less capable--had no place to turn for employment. Blind persons were traditionally denied employment because employers thought their employment would result in less quantity and quality of work and in more on-the-job accidents (Carroll, 1976).

The first effort at economic opportunity for individuals who were blind was a workshop in 1840 developed by the Perkins Institution and Massachusetts School for the Blind. Vending facilities existed as early as the turn of the century in certain industries (caning chairs, making brooms and mops, and weaving rugs) in New England. The Vocational Rehabilitation Act for Disabled Veterans and the later Vocational Rehabilitation Act of 1920 excluded blind persons; so the blind population did not have access to any facilities until the government-sponsored program began in 1936 (Carroll, 1976; Hawaii Division of Vocational Rehabilitation [Hawaii], undated).

The passage of the law faced many barriers. A bill to make federal buildings open for location of vending facilities within them failed to pass in 1921. However, discussions between federal officials and those working to provide employment for persons who were blind began making the government aware of the needs of these individuals. Thomas Scholl, a Senator from Minnesota who was blind, introduced the first Blind Vendors Bill which proposed that newspaper, candy, and refreshment stands in federal buildings be operated by individuals who were blind. The bill was defeated because agencies for the blind were not interested and did not support it (Carroll, 1976).

Leonard Robinson, an attorney from Ohio who supported the concept of blind vendors in federal buildings, convinced President Roosevelt of its importance. In 1933, President Roosevelt issued a very restrictive general order which allowed persons who were blind to sell newspapers and magazines in federal buildings where space could be provided and where the facility would not interfere with general business. The stands and equipment had to be removed after business hours and only newspapers and magazines could be sold. Few could earn a living from these stands. Because of the limitations, the program was not very successful (Carroll, 1976; Nevada Bureau of Services to the Blind [Nevada], undated; University of Tennessee, 1976).

Also in 1933, Representative Matthew Dunn, a Congressman from Pennsylvania who was blind, introduced a bill (which did not pass) to establish a bureau to manage concession stands operated by blind persons. Between 1933 and 1936, the issue of providing opportunities for employment for blind persons became heated, resulting in Representative William Jennings Randolph introducing legislation in the House (with Morris Sheppard introducing legislation in the Senate) which was unanimously passed and became known as the Randolph-Sheppard Act of 1936 (Carroll, 1976; Nevada, undated; University of Tennessee, 1976).

The Act recognized that individuals who are blind were subject to extreme discrimination in American society. The Act was meant to "[provide] blind persons with remunerative employment, [enlarge] the economic opportunities of the blind; and [stimulate] the blind to greater efforts in striving to make themselves self-supporting" (Nevada, undated, p. 3).

The Barden-LaFollette Act (Vocational Rehabilitation Act of 1943) strengthened the development of vending facilities and provided greater opportunities during the years of World War II. It expanded services to the severely disabled including persons who were blind. This Act forged a new cooperative relationship between federal and State vocational rehabilitation agencies and vending facilities (Carroll, 1976; Moore, Hutto, & Schauwecker, 1993).

2.2 The Randolph-Sheppard Act After World War II

Under the administration of various SLAs provided for by the Act, the Business Enterprise program for the Blind thrived in some federal locations nationwide, while the program floundered in other states. Following World War II in 1946, the vending facility program was placed under the Director of Vocational Rehabilitation, allowing the program to gain from the increased concern for rehabilitation of soldiers injured during the war (University of Tennessee, 1976). However, federal employee groups began to replace the blind facility managers with machines, incorporating mechanical advancements occurring at that time, through contracts with vending companies to make a profit for their employee groups. Members of Congress recognized these practices to be completely contradictory to the spirit of the Act and in 1954 amended the Act under Public Law 83-565.

2.3 1954 Amendments to the Randolph-Sheppard Act

These amendments in 1954 expanded the definition of a vending facility to include the dispensing of articles and services either manually or automatically and changed the phrase "federal buildings" to "federal properties." The amendments also clarified the ownership of stock and equipment (by vendor or SLA); allowed the right to a fair hearing by the dissatisfied blind vendor; and allowed setting aside of funds from the operation of vending facilities to buy, replace, and maintain equipment, to use for management services, and to assure a fair minimum return to operations. The law served to strengthen the original program and to increase recognition of the program by privately owned properties. The demand for facilities in industries increased until they outnumbered facilities on federal properties (Carroll, 1976; University of Tennessee, 1976).

However, all was not rosy. "Due primarily to the influence of the vested interests, the program remedies anticipated by the 1954 amendments were not aggressively pursued" (Nevada, undated, p. 4), resulting in hearings by Senator Jennings Randolph in 1972. Legislation assured further preference to blind persons and included an appeals provision in the program, allowing the SLA to appeal any dispute arising from the issuance of a permit, the assignment of vending machine proceeds, and operating procedures. Still no funding existed for the program. Further dissatisfaction led to the necessity for further amendments in 1974.

2.4 1974 Amendments to the Randolph-Sheppard Act

Because the 1954 amendments were woefully inadequate, the 93rd Congress again confronted the problems in the Business Enterprise Program for the Blind. Extensive changes were made in the administration of the program and assimilated in Title II of Public Law 93-516 (the Randolph-Sheppard Act Amendments of 1974). The 1974 amendments reorganized the Randolph-Sheppard program administratively by requiring several basic revisions. Most important was the provision in the Act that mandated a priority rather than a preference for licensed blind persons to operate vending facilities on federal property. Some of the new provisions included the following:

(1) Grant priority to blind persons licensed by designated state agencies in the operation of vending facilities on federal property;

(2) Create a Committee of Blind Vendors in each state charged with the responsibility of actively participating in policy formulation, grievance procedures, program development and training;

(3) Increase accountability by the SLA to insure program growth through aggressive exploration of the priority provided;

(4) Create and maintain a program of upward mobility for facility managers;

(5) Give licensees access to SLA financial data and other program information;

(6) Give dissatisfied blind licensees the right to full evidentiary hearings by the SLA, then arbitration panels by the Department of Education if still dissatisfied; and

(7) Supply specifications for assignment of vending machine income.

2.5 1979 Senate Oversight Hearing

Senator Jennings Bryan held an oversight hearing in 1979 to examine the implementation of the 1974 amendments to the Randolph-Sheppard Act. Major areas of concern were whether priority was given to the blind vendor; if guidelines for operating the program were met by SLAs; if all federal departments and agencies uniformly applied mandated guidelines; why the law was so slow in being implemented by the Department of Education and why federal agencies were not meeting their legal requirements; and if federal departments and agencies were not meeting vending machine income sharing provisions with blind vendors. Specifically, the Department of Defense (DoD) and the Postal Service (USPS) were questioned about their meeting provisions of the law. Complaints by facility managers during the hearing included the RSA dismissing grievances without arbitration panels being convened and SLAs not carrying through with their own hearings; SLAs ignoring training and upward mobility; positions established by law to oversee the programs not being filled; State Vendor Committees not being given active participation and sometimes containing members from the SLA; federal agencies not giving prior notification of new vending facilities to SLAs; federal agencies not notifying SLAs and/or not selecting blind vendors for cafeterias; most federal agencies not paying their share of vending machine income; SLAs not advocating for blind vendors in securing vending facilities through arbitration; the USPS and USDoD not meeting legal requirements of the law and resisting meeting them; and the General Services Administration (GSA) not meeting the requirements of the law related to cafeterias. At this point, no state agencies had been relicensed as state licensing agencies. No further amendments were passed (Subcommittee on the Handicapped, 1979).

2.6 1985 Senate Oversight Hearing

Senator Ted Stevens held an oversight hearing in 1985 when some members of the Senate were concerned that the blind-priority requirement was not met in the awarding of bids and continuance of contracts without opening for rebidding for management of cafeterias on government property. After the hearings, the GSA study of its policies indicated that it had not been in full accord with the intent of the Randolph-Sheppard Act. It decided to continue the policy of accepting a contract for cafeteria service with the option to continue the contract for two 5-year periods if service was satisfactory. However, the GSA determined that it had not afforded SLAs, which license blind operators, information needed to present proposals at all and definitely did not give the SLAs a priority to present proposals for blind facility operators. To remedy this, it decided to allow SLAs to present proposals in advance of the expiration of contracts and to provide for direct negotiations for all future GSA cafeteria contracts prior to competition (Subcommittee on Civil Service, Post Office, and General Services, 1985).

2.7 1991 House of Representatives Hearing

The House of Representatives held a hearing on October 31, 1991 to examine the Randolph-Sheppard Act because the Act had not been reviewed by a committee with authorizing jurisdiction in over 12 years. The main concern was the trend toward awarding contracts to commercial food services, which undermined the priority for facility managers who are blind and constituted a "violation of the letter and spirit of the law" (Subcommittee on Select Education, 1992, p. 1).

Because facility managers cannot file complaints (for arbitration) against federal property managers (Only SLAs can.), testimony focused on the lack of some SLAs and the Department of Education to battle for facility managers when federal agencies did not provide opportunities for employment as required under the law or did not help when a facility was closed by a federal property manager. Other problems related to the Act testified to by SLA and facility manager representatives included (1) facility managers usually do not have the funds to fight a violation of the law by an SLA; (2) evidentiary hearings were seen as almost useless because someone at the state level decides on a case or the decision may be changed by the director of the SLA; (3) federal agencies, especially the Department of Defense and the U.S. Postal Service, fail to give priority to vendors who are blind, especially in cafeterias and are not consistent from state to state; (4) arbitration panels are not empowered to deal effectively with Randolph-Sheppard Act violations; (5) attorney fees should be paid by the Department of Education; (6) the Department of Education does not actively advocate for fair and reasonable implementation by all federal agencies, but passively observes what is happening; and (7) the Department of Education does not assert its responsibilities to SLAs or federal agencies. SLAs represented by the Florida SLA (with supporting letters from numerous other SLAs), the RSA, the USDE, and the Subcommittee saw no reason for amendments to the law or regulations, but a need for greater enforcement of current regulations (Subcommittee on Select Education of the Committee on Education, 1992).

2.8 State Business Enterprise Program History

Administration of the BEP is located at the state rehabilitation agency, which is designated as the SLA. Only the designated state unit which provides services to persons who are blind is authorized to serve as the SLA. Approximately 51 of the states and territories currently administer a BEP for the Blind under the Randolph-Sheppard Act, as amended. Over 24,000 persons who are blind have been employed in this program since its inception in 1936 (RSA, 1994). The program has broadened considerably from federal locations to include state, county, municipal, and private facility installations. The Randolph-Sheppard program most assuredly can be accurately described as "big business." The program's gross sales rank within the 50 largest food service corporations in America (RSA, 1993).

Each state BEP has a rich and colorful history that should be briefly described in any program operations manual. Every SLA is encouraged to develop a brief history of their BEP including a description of the first vending facilities established, where they were located and the types of facilities that were operated.

It would also be appropriate to include a brief legislative summary of the program including a BEP legislative history in the particular state involved.

Chapter 3

Mission and Organizational Structure of the Business Enterprise Program

3.1 Purpose of the Business Enterprise Program

The purpose of the Randolph-Sheppard Vending Facility Program is to provide remunerative employment for individuals who are blind through the operation of vending facilities on federal and other property. The Randolph-Sheppard Act (20 U.S.C. 107 et. seq.) provides priority for such individuals who are licensed by an SLA to operate vending facilities, including cafeterias, on any federal property. The Randolph-Sheppard regulations require that the SLA must be the state vocational rehabilitation agency that furnishes rehabilitation services to individuals who are blind. In addition, the Randolph-Sheppard Act and regulatory guidelines provide a grievance system with procedures for arbitration of complaints from licensed facility managers against SLAs and the complaints of SLAs against federal departments and agencies. (See Chapter 17.) Most states have, to some degree, adopted legislation extending the federal priority of the Act to state and local properties.

The BEP directly manages the Randolph-Sheppard Vending Program on behalf of the SLA, though a few states rely on a nominee agency to furnish management services. (See Section 16.2.) While each state will vary somewhat in its application, the general mandates of the BEP would include the following (RSA, 1992):

(1) *Licensing of qualified individuals who are blind to operate vending facilities;*

(2) *Creation and equipping of vending facilities at the expense of the state;*

(3) *On-site management responsibility for each facility being invested in the operator/manager;*

(4) *Support management responsibility, including some degree of primary management decisions, being invested in the State Licensing Agency;*

(5) *The setting-aside of a portion of net proceeds to defray the cost of the program; and*

(6) *Maintenance of existing facilities at state or operator expense.*

3.2 Types of BEP Facilities

The five basic types of facilities found in the BEP are specialty facilities, snack bars, vending machines, cafeterias, and sundry (dry) facilities. The specialty facility is a gift shop or card shop. A snack bar sells limited lines of refreshments and prepared food suitable for a light meal, including "food and refreshments prepared on or off the facility that is wrapped or placed in containers at the point of sale" (USDE, 1988, p. 20). Vending machines are automated coin- or currency-operated machines that dispense food and drinks, sometimes with a microwave nearby. Cafeterias dispense a broad variety of prepared foods and beverages, including hot meals, using a line in which the customer serves him/herself or is served by another, and provide seating. A sundry facility is one that does not fit into any of the other categories and offers a variety of products or services for off-premise use (dispensed by person, machine, or combination) (USDE, 1989, p. 20).

3.3 Organizational Structure

The organizational structure of a state's Business Enterprise Program along with key BEP staff position titles should be discussed in a state's program operation manual. The goal of these staff members is to combine their expertise and skills in maintaining the kind of program that is necessary to ensure a quality facility which serves its customers and provides the highest long-term return possible to all vending facility managers within the program. Each of these professionals is committed to offering quality services and assisting each facility manager in providing the best products and services to their customers and in achieving the highest earnings possible under the BEP.

3.4 Duties and Responsibilities of Key Staff Members

Duties and responsibilities of key BEP staff members should also be thoroughly discussed in a state's program operation manual. Duties and responsibilities of staff vary from state to state; likewise, there are wide variations in administrative structure and autonomy of the programs. The SLA should clearly describe the structure or model utilized in its particular state.

Chapter 4

The State Committee of Blind Vendors

4.1 History of the Committee of Blind Vendors

The 1974 Amendments to the Randolph-Sheppard Act and accompanying USDE regulations (34 CFR 395.14(a)) mandated that each SLA create a committee of blind facility managers to provide meaningful input to the SLA and handle grievance procedures (RSA, 1992). From that point, each SLA determined how and when facility managers met to elect its first State Committee of Blind Vendors. In most cases, the first State Committee of Blind Vendors drafted by-laws outlining the purposes, duties, responsibilities, and administrative procedures of the Committee. Specific election and other administrative procedures of each State Committee are determined by itself (Missouri Division of Family Services [Missouri], 1991; Nevada, undated).

4.2 Legal Basis for Responsibilities of State Committee of Blind Vendors

Federal regulatory guidelines are very explicit on the duties and responsibilities of the elected State Committee. Specifically, the elected State Committee of Blind Vendors shall have the following responsibilities:

(1) *Actively participate with the State Licensing Agency in major administrative decisions and policy and program development decisions affecting overall administration of the state's vending facility program, including:*

(a) *The development of policies which govern duties, supervision, transfer, promotion, and financial participation of the vendors; and*

(b) *Setting out the method of determining the set-aside charge to be levied against the net proceeds of the vendors.*

(2) *Receive and transmit to the State Licensing Agency grievances at the request of blind licensees and serve as advocates for such vendors in connection with such grievances;*

(3) *Actively participate with the State Licensing Agency in the development and administration of a State system for the transfer and promotion of blind licensees;*

(4) *Actively participate with the State Licensing Agency in the development of training and retraining programs for blind licensees; and*

(5) *Sponsor, with the assistance of the State Licensing Agency, meetings and instructional conferences for blind vendors within the State* (RSA, 1992, pp. 26-27).

The term "active participation", as used above, means "a process of good faith negotiations" involving the elected Committee of Blind Vendors and the State Licensing Agency (RSA, 1992, p. 27). "The Committee must be given an opportunity to have meaningful input into the decision-making process in the formulation of program policies which affect them" (RSA, 1992, pp. 27-28). A Request for Policy Interpretation 2520.00 PQ 217 (RSA, 1980, p. 2) further explained the parameters of active participation in the following way:

(1) *Active participation means more than a token advisory role . . . .*

(2) *In order to assure opportunity for effective and constructive participation, the Committee should be provided written information, whenever possible, on relevant matters to be considered prior to decision-making meetings.*

(3) *The State licensing agency is charged with the ultimate responsibility for the administration and operation of all aspects of the vending facility program. If however, the agency does not adopt the views and positions of the Committee, it shall provide the Committee in writing the reasons for the decision reached or the action taken.*

Specific rules and regulations concerning the State Committee other than those specified by law should have been explicitly written into the application by the SLA (34 CFR 395.2). A description of changes in any rules and regulations (including those concerning the Committee of Blind Vendors) must be submitted for approval to the RSA Commissioner (RSA, 1992, pp. 8-9).

As noted above, the SLA has ultimate responsibility for the administration and operation of all aspects of the vending facility program (RSA, 1992, p. 28), and is responsible for ensuring that actions of the State Committee of Blind Vendors are in accordance with the statutes and regulations regarding the Randolph-Sheppard Act and the BEP. With <u>responsibility</u> goes <u>liability</u>, and each SLA and/or its Attorney General will have to determine how much actual "control" of the program is delegated to the Elected Committee. This determination often becomes a legal/liability issue; each SLA should clearly articulate its definition of "active participation" in its program operation manual. For example, if the Elected Committee is given the authority by the SLA director to make final decisions on promotions of facility managers into vacant facilities, another facility manager may file a grievance. It is still the SLA director who is ultimately responsible for the decision. Agency policy should clarify how disagreements with an Elected Committee's decisions are to be resolved. Disagreements by vendors can terminate in the convening of arbitration panels by the Education Secretary, resulting in attorney fees for the state and other expenses levied in support of the aggrieved vendor's claim. Because states differ in how much "active participation" is allowed the Committee, guidelines that meet all states' situations cannot be specified except by specific states. Each state should determine what its policy is and include it in its operation manual. If an SLA has not determined policy in this area, future problems may arise resulting in arbitration.

4.3 Specific Responsibilities of the State Committee of Blind Vendors

States vary in how much "active participation" is afforded the Committee, so specific responsibilities that fit for every SLA are difficult to define. This section is a summary of ways in which the State Committee may contribute to the SLA. Generally, the responsibilities of the Committee may include participating in SLA policy decisions, developing the grievance procedures, selecting and transferring operators, providing input into selecting meeting dates, and developing training programs. An SLA may expand upon the functions and duties of the Committee as long as it does not conflict with the purpose of the Committee as stated by the Randolph-Sheppard Act and/or established rules and regulations of the USDE or the SLA (Nevada, undated; New Jersey Commission for the Blind and Visually Impaired [New Jersey], 1989; Texas Commission for the Blind [Texas], 1992).

The primary role of the Committee is to serve as the operator's voice in all phases of developing and promulgating policy and administering the BEP. The SLA should keep the Committee informed in writing, as well as alternate media, of major administrative, policy, and program development decisions being considered so the Committee may provide input. All recommendations should be considered by the SLA and should be incorporated into policy decisions unless a contrary position has been taken. The reasons for the conflicting position should be communicated, in writing as well as alternate media, to the Committee. The Committee in some states have oversight responsibilities for approving all forms, policies, and rule interpretations included in the BEP Operators Manual. In some states, the Committee also has a voice in filling all administrative positions in the BEP, which is subject to the personnel requirements of the SLA and the state's Human Resources or Personnel Office, and/or evaluating BEP representatives. (See "Committee of Blind Vendors BEP Representative Evaluation" and Committee of Blind Vendors BEP Representative Evaluation Summary" in Appendix B.) Final responsibility for the administration of the BEP and final program adoption rests solely with the SLA (Nevada, undated; New Jersey, 1989; Texas, 1992).

The Committee shall also play a role in handling grievance matters and serve as the first step in processing a complaint by an operator. An aggrieved operator is encouraged to discuss his/her complaint with the appropriate Committee representative who may provide assistance to the aggrieved operator in the interpretation of rules. Any information furnished to the Committee is strictly confidential and may be used only for the purposes of resolving the complaint, unless otherwise authorized in writing by the facility operator. (Open Meeting laws in some states may prevent confidentiality.) If the facility operator is still dissatisfied with the outcome of the complaint, the operator may ask for an administrative hearing/review with the Committee representing the facility manager at a grievance hearing (Nevada, undated; New Jersey, 1989; Texas, 1992).

The Committee is charged with the responsibility of participating with the SLA in developing and administering a program for the selection, transfer and promotion of facility operators (RSA, 1992, p. 26). In most states, Committee members are notified of program vacancies and work closely with the BEP Manager in the filling of vacancies. The BEP Manager and/or SLA Director assumes responsibility for making the final selection of program vacancies and notifies the Committee of the results of the selection process. Similarly, the Committee is required to help the SLA design and implement training programs to help facility managers take advantage of promotional vacancies, encouraging upward mobility (Nevada, undated; Texas, 1992).

It is extremely important that lines of communication between the Committee and licensed managers, and the Committee and the SLA, remain open. Open lines between the Committee and the licensed managers they represent ensure that the Committee knows of any problems so appropriate action can be taken. Each Committee member should communicate frequently with licensed managers they represent and should let them know the results of Committee meetings.

The Committee should also maintain communication with the BEP and appropriate SLA staff. In a model communication network, the SLA would be informed of all meetings and their agendas with as much advance notice as possible. The SLA would also provide an agenda for the Committee regarding policy changes, problems, or any other business. The Secretary or another member of the Committee should provide minutes of each meeting to other Committee members and appropriate BEP and SLA staff as soon as possible. Taped and typed copies (or other accessible media) of proceedings of each meeting ideally would be maintained in the BEP administrative office for licensed managers or others who want them

(Nebraska Services for the Visually Impaired [Nebraska], 1983; Texas, 1992). The communication process among the SLA, the State Committee, and the vendors should be specified in each SLA's Operations Manual.

4.4 Election of Committee Members and Vacancies

All licensed vending facility managers will elect the State Committee of Blind Vendors at least biennially in a meeting or by mail to represent the interests of all licensed vending facility managers in the state. The State Committee of Blind Vendors is to be representative of all vending facility managers in the state program on the basis of factors of geography, vending facility type, sex, and proportion of federal, state, municipal, and private property when possible (RSA, 1992). The Committee ranges in number from 3 to 18 members, depending upon the size of the state and/or the BEP. All vending facility managers are eligible to vote in the elections regardless of any outstanding debt, dues, or any other fees owed to the SLA (RSA, 1992).

The way an SLA handles nomination and election of the State Committee varies by state. However, many of the manuals surveyed used a number of the methods mentioned in the rest of this section.

A list of facility operators eligible for nomination to the Committee may be provided to vending facility operators for election at the annual or biennial meetings. To be eligible for nomination as a member of most State Committees, a facility manager must meet several or all of the following criteria: (1) must be a licensed manager in good standing (not delinquent in any payments to the SLA or state tax agency and not on probation); (2) have a minimum of one year tenure in the program prior to nomination; and (3) operate a facility in the geographic territory she/he represents. Members of the BEP may then nominate operators from this list for representation on the Committee. The State Committee or a nominating committee should ensure that all persons nominated agree to serve on the State Committee for the term elected. Members of the Committee are usually elected by a majority of all licensed facility managers in the BEP by secret ballot and serve a term of (to be determined by the SLA) years or until a successor has been duly elected at the (annual or biennial) elections. The Committee members in many states are elected to the same position for no more than two consecutive terms (Missouri, 1991; Nebraska, 1983; Nevada, undated; Texas, 1992).

Some State Committee members are elected to specific offices; others are elected as a group, and immediately following their election, internally elect a Chairperson, Vice Chairperson, and/or a Secretary (or other officers, depending on the state) to serve during their terms as members on the Committee (Missouri, 1991; Nebraska, 1983; Nevada, undated; Texas, 1992).

Depending upon the state, a Committee member may have to immediately vacate her/his office when she/he moves to a facility outside her/his geographical area (or possibly the next election if promoted to a better facility); if she/he comes under disciplinary procedures; and after 3 months, for other than disciplinary reasons, she/he is waiting for assignment to another facility. Vacancies may be filled by appointment (reflecting the majority vote of the remaining members) or may require a new internal election, usually depending upon the size of the State Committee of Blind Vendors. Elections for vacancies may be by mail or phone canvass. Most states prefer a secret ballot of some type (Missouri, 1991; Nebraska, 1983; Nevada, undated; Texas, 1992).

4.5 State Committee Meetings and Expenses

Typically, Committee meetings are held quarterly, with one meeting scheduled to coincide with any state-wide facility operators meeting or instructional conference. Meetings are scheduled in accordance with the state's Open Meetings law. All Committee members, the BEP Manager/Director, and/or BEP counselors/representatives usually attend these meetings, with appropriate governing SLA officials invited. Special meetings may be called and held as appropriate and are to be coordinated with the BEP Manager/Director. In many states, continued unexcused absences will result in a special election or appointment of someone who is able to attend meetings (Nebraska, 1983; Nevada, undated; Texas, 1992).

Expenses of members to attend Committee meetings and to perform official Committee duties may be defrayed by the SLA. With the exceptions of travel and per diem costs, members serve without compensation. Travel and per diem incurred by Committee members attending the (annual or biennial, depending upon the state) training conference may be paid by the SLA. If the SLA pays for travel, each State Committee member must coordinate travel for official Committee business with the SLA, obtaining the SLA's written approval prior to travel. The prior written approval is usually attached to vouchers for reimbursement of travel expenses. The SLA is not obligated to pay travel expenses of a Committee member whose trip was not approved in advance (Nevada, undated; Texas, 1992).

Chapter 5

Role and Responsibilities of the Vending Facility Operator

5.1 Definition of a Vending Facility Operator

The Randolph-Sheppard Act regulations (34 CFR 395.1(aa)) and RSA regulations (RSA, 1992, p. 7) define a "vendor" as a "blind licensee who is operating a vending facility on federal or other property." The term "vendor" originated with the Randolph-Sheppard Act of 1936. However, most BEPs call their licensees vending facility operators or managers. All SLAs are encouraged to do so.

5.2 Role of the Vending Facility Operator

The facility operator is responsible for managing all aspects of the business of his/her facility. Depending upon the type and size of the facility (whether a cafeteria, snack shop, dry stand, automatic vending machines, or gift shop), the facility operator performs the following functions: (1) Planning the menu, if food is offered; (2) purchasing the facility's inventory and supplies; (3) controlling inventory, labor, and cash; (4) handling food (receiving, storage, preparation, and service); (5) merchandising; (6) ensuring sound sanitation and housekeeping practices; (7) maintaining excellent customer and property manager relations; (8) managing financial aspects of the business; (USDE, 1988, pp. 7-8); and (9) maintaining equipment provided by the state to run his/her operation.

The vending manager and the property manager must have a good working relationship in order for the vending facility to provide appropriate services to those occupying the property. The permit to operate the vending facility in the building belongs to the SLA, and the contractual agreement is between the SLA and the building owner/manager. (The facility manager is licensed by the SLA.) Jeopardizing that permit is grounds for suspension or termination of the operating agreement (Alaska Division of Vocational Rehabilitation [Alaska], 1991, p. 1.4-1). (See Chapters 9 and 11 for more information.)

5.3 Responsibilities of the Vending Facility Operator

Each vending facility manager is ultimately responsible for the success or failure of his/her cafeteria, snack bar, facility, etc. It is incumbent upon each vending facility manager to carry out his/her responsibilities in a timely and effective manner. These include the following responsibilities:

(1) Each manager is responsible for having the vending facility open for business on the days and during the hours specified in the permit or contract;

(2) Each manager will operate the vending facility business on a cash basis except for such credit accounts as may be established or authorized by the SLA;

(3) Each manager is accountable to the SLA for the proceeds of the business and will handle the proceeds, including payments to suppliers and deposits of funds in accordance with instructions from the SLA;

(4) Each manager will carry on the business of the vending facility in compliance with applicable health laws and regulations;

(5) Each manager will maintain a neat, business-like appearance while working at the vending facility and will operate the facility in an orderly, business-like manner;

(6) Each manager will take proper care of his/her equipment and will make alterations or changes therein only with written approval of the SLA;

(7) Each manager will notify the SLA in advance and in a reasonable time period before taking any voluntary leave from the vending facility and as soon as possible with respect to any involuntary leave (e. g., sick leave);

(8) Each manager will keep such records and make such reports as the SLA may require;

(9) Each manager will provide for substitute operation of the vending facility as may be necessitated by the vendor's absence because of illness, vacation, etc. The salary of the person who substitutes for the facility manager, or that of

other emergency or temporary help, shall be paid by the vending facility manager;

(10) *Each manager agrees to enter his/her facility at his/her own risk. Responsibility for injuries received and all related expenses thereto will be assumed by the vending facility manager.* (This varies by state depending upon applicable Workers' Compensation laws.);

(11) *[Each manager] maintain[s] personal and property damage liability insurance naming the SLA as an "additional insured." The vending facility manager is also required to maintain insurance against loss of the vending facility property by fire or other hazard;*

(12) *Each manager will strive at all times to maintain a positive working relationship with management and customers of the location wherein his/her facility is located;*

(13) *[Each manager] maintain[s] an inventory of equal or greater value than the initial inventory in order to insure continuation of services and maintenance of a viable business operation;*

(14) *[Each manager] work[s] cooperatively with the SLA in the management and administration of a program, including (1) . . . a financial audit, (2) . . . facility and management review[s], (3) participation in recommended continuing education, (4) program planning and expansion, (5) on-the-job training for new vending facility managers, and (6) cooperation with qualified management consultants;*

(15) *[Each manager] operate[s] the vending facility in a manner which will maintain a minimum annual net profit which is negotiated and documented in the operating agreement* (Alaska, 1991, BEP 2.8; Mississippi Vocational Rehabilitation for the Blind [Mississippi], 1990, Section 4).

Some SLAs have attempted to proactively address the intent of the Randolph-Sheppard legislation to provide employment opportunities to blind individuals. Part of the responsibilities of a vending facility manager in these states are that the facility requires the active and continuous involvement of the licensed and contracted vendor in the daily operation of the facility. Their policies require that a vendor be physically present in the vending facility at least 5 hours per day, 5 days per week. At least half of this time must be during hours that the facility is open to the public (Alaska, 1991, BEP 2.8-1).

Chapter 6

Funding of the Business Enterprise Program

6.1 Sources of Funding for State Business Enterprise Programs

Funding for State BEPs may come from federal or state funds, from profits from the BEP facilities, or other sources (e.g., rest area vending). No federal funds are appropriated under the Randolph-Sheppard Act. However, SLAs, as the only designated state unit which provides rehabilitative services to persons who are blind, may use Section 110 funds to support the program as authorized by 34 CFR 361.72. Programs vary from state to state with regard to the amount of state general fund money put into the program as well as the amount of set-aside money used to operate the program. In a few states, the BEP is fully self-supporting requiring no federal or state monies to meet responsibilities and obligations. The program is funded entirely in some states by assessments paid by the facility managers from the net facility profits and by income received by the SLA from unassigned vending on public property. Because state practices vary widely from state to state, each state's operation manual should discuss its funding practices here.

6.2. Federal Funding Authority

Funding authority for expenditures made for the Randolph-Sheppard Vending Facility Program is found in section 103(b) of the Rehabilitation Act and 34 CFR 361.72 dealing with small business enterprises (including vending facilities for individuals with severe handicaps). An SLA may use its authority under the services for groups with severe handicaps to pay for allowable expenditures for the Randolph-Sheppard/Small Business Enterprise Program (RSA, 1992, pp. 29-30). Funds may come from expenditures by the state which are eligible for federal match and expenditures from set-aside funds which may or may not be eligible for federal match.

Another source of funding for the Randolph-Sheppard Program may come from vending machine operations assigned to SLAs under the authority of the Surface Transportation Assistance Act of 1982, P.L. 97-424. Section 111 permits the placement of vending machines in rest and recreation areas and in safety rest areas constructed or located on rights-of-way of the national system of interstate and defense highways. These vending machines may only be operated by the state, who must give priority to vending machines operated through the Randolph-Sheppard Act (20 U.S.C. 107A(A)(5) under the auspices of the SLA. However, any income generated through the Surface Transportation Assistance Act may be used any way the SLA determines.

6.3 Expenditures Eligible for Federal Match

Federal regulations provide federal funding for certain expenditures in the operation of the Randolph-Sheppard Vending Facility Program. Expenditures covered include (1) acquisition and replacement of equipment; (2) initial stock and supplies for a facility; and (3) management services and supervision provided by the SLA to improve the operation of the facility. Management services includes the service and initial cost of establishing and maintaining a new facility for no more than 6 months (including costs such as licenses, utilities, occupational fees, advertising, and public liability insurance); costs incurred by the SLA in developing new locations; costs related to the selection and operation of the State Committee of Blind Vendors as determined by the SLA; and training designed to improve operating skills of managers in current facilities (RSA, 1992).

6.4 Set-aside Funds Assessed By the State

Set-aside funds include fees assessed by the SLA or its nominee from the net proceeds of each BEP facility and unassigned income from vending machines on federal property (RSA, 1992). The fees assessed by the SLA must be reasonable and approved by the RSA Commissioner. Some SLAs assess a set percentage per month to managers' profits, which is periodically reviewed by the SLA and the State

Committee of Blind Vendors and may be revised if deemed in the best interest of the BEP. Others use a formula using projected revenue and expenses in the budget for the upcoming year to determine the percentage assessed, after reviewing it with the State Committee of Blind Vendors. These formulas for generating set-aside funds vary from state to state. Some states utilize set-aside funds extensively, while a few charge little or no set-aside because their program is self-sufficient (Mississippi, 1990; Missouri, 1991; Nebraska, 1983; Texas, 1992).

6.5 Purpose of Set-aside Fees

States may use their own set-aside fees (as opposed to federal matching funds) for various purposes. Many states utilize matching funds for the purchase of equipment and managerial services which are secured from set-aside revenue generated by the program's facility managers, while repair bills are generally paid exclusively from the money which is set-aside each month by the facility managers (Mississippi, 1990; Missouri; 1991; Nebraska, 1983; Texas, 1992). Some of the ways in which SLAs may use set-aside funds, as designated by the Randolph-Sheppard Act (RSA, 1992, p. 25), in the operation of BEPs are listed below:

(1) Maintenance and replacement of equipment;

(2) The purchase of new equipment;

(3) Management services;

(4) Assuring a fair minimum of return to vendors; or

(5) The establishment and maintenance of retirement or pension funds, health insurance contributions, and provision for paid sick leave and vacation time, if it is so determined by a majority vote of blind vendors ...

6.6 Expenditures from Set-aside Funds Eligible for Federal Match

The Randolph-Sheppard Act authorizes SLAs to set aside funds for the purposes noted above on a roughly 78 to 22 (federal to set-aside) basis. These are considered state funds for purposes of federal matching. However, only three of the purposes for which funds may be set-aside under the Randolph-Sheppard Act are eligible for federal matching under the amended Rehabilitation Act. These three purposes are purchases of new equipment, replacement of equipment, and management services and supervision (RSA, 1992).

Chapter 7

Model Qualifications of Potential Facility Managers

7.1 Coordination Between VR Counselors and BEP Counselors

It is essential that VR counselors who have clients that may be interested in entering the Business Enterprise Program work collaboratively with counselors/representatives employed in the BEP. Consideration should be given only to those clients whose best corrected visual acuity meets the definition of legal blindness because these are the only clients who can be placed in the BEP. Upon evaluation of the referral information and recommendations received thereon, the appropriate SLA official will determine if the applicant should be enrolled in a BEP training program. This determination is generally based on a reasonable expectation that the applicant would benefit from and complete the program, thus obtaining a license qualifying the trainee to operate a BEP facility.

7.2 General Requirements

SLAs vary from state to state in the qualifications utilized to select candidates for the BEP. Some SLAs utilize relatively broad and generic requirements which include legal requirements such as the following (Missouri, 1991; Nevada, undated):

(1) Is blind as defined by federal and state laws and regulations;

(2) Is a citizen of the United States (legally required);

(3) Is physically and emotionally qualified to operate a BEP facility;

(4) Possesses the skills necessary for the performance of the duties and responsibilities of an operator;

(5) Has the ability to sustain self-employment; and

(6) Is at least 18 years of age.

7.3 Specific Requirements

Other SLAs are more explicit in their qualifications and include a variety of criteria. The SLA should carefully review any specific requirements when establishing selection criteria to ensure that the Americans with Disabilities Act (ADA) is not violated. The following requirements are examples of requirements taken from several state procedure manuals (Alaska, 1991; Connecticut Board of Education and Services for the Blind [Connecticut], undated; Mississippi, 1990; Nebraska, 1983; Texas, 1992):

(1) Physical Requirements

- (a) Legally blind (i.e., 20/200 in the better eye after correction or no more than a 20 degree field of vision in the better eye after correction);
- (b) Good health and stamina and capable of interacting with the general public (Diagnostic and evaluation reports are required in some states.);
- (c) Age of at least 18 (or 19 in Nebraska in nonfederal facilities);
- (d) Good hearing;
- (e) Good personal hygiene; and
- (f) Freedom from infectious diseases or skin conditions.

(2) Educational Requirements

- (a) Minimum of a high school education or GED equivalent;
- (b) Relevant equivalent training substituted for educational requirements;
- (c) Successful completion of basic exams, such as business math or demonstrated mathematics ability; and
- (d) Have sufficient educational skills, knowledge, or potential capacity to benefit from on-the-job and formal training in the operation of a vending facility.

(3) Functional Abilities

- (a) Good finger, hand, and arm coordination;
- (b) Ability to bend, stretch, and lift items weighing up to 50 pounds;
- (c) Ability to work at a steady pace 10 hours a day, 5 1/2 days a week, without ill effects;

(d) Adequate orientation and mobility skills which would allow him/her to utilize various means of transportation available to ensure accessibility to home and business locations; and

(e) Competence in maintaining business records and accounts, controlling inventory, and recognizing and correcting machine problems.

(4) Social Skills

(a) Self-confidence, maturity, and well-adjusted and/or stable personality;

(b) Ability to interact with the public, work in harmony with others, and to relate well with those whom he/she comes in contact;

(c) No socially unacceptable behavior such as alcoholism, drug addiction, belligerency, or other forms of deviant/maladaptive behavior;

(d) A healthy, positive attitude and self-concept;

(e) Elimination or modification of undesirable mannerisms commonly associated with blindness (e.g., rocking behavior);

(f) Ability to accept supervision and constructive criticism;

(g) Ability to reflect favorably on the competence of persons who are blind in the eyes of the public by the competent manner in handling business and relations with the public; and

(h) Initiative and ability as a self-starter.

Other qualifications also may be stipulated or considered by the SLA. These include such requirements as meeting established policies on having paid all BEP accounts in full prior to reentering the program or being considered for promotion, transfer, etc. or having transportation available to and from the prospective work place. Provisions may also be made for a waiver of certain qualifications (not required by statute) whereby applicants may be conditionally considered if BEP professional staff believe that improvements will be forthcoming if certain qualifications are waived (Mississippi, 1990; Texas, 1992). Any specific requirements or qualifications stipulated by the SLA should be carefully reviewed to ensure that ADA provisions are not violated.

Entrance into the Randolph-Sheppard program is generally a coordinated activity between the BEP counselor/representative and the VR counselor. The VR counselor has the responsibility to identify potential candidates and recommend those individuals to the BEP.

States vary as to the process of determining the appropriateness of a candidate to enter a training program to manage a vending facility. Usually a pre-training agreement will be made part of the BEP case file and included in the individualized written rehabilitation program for the individual. The agreement usually includes (1) the proposed training program for that individual; (2) a requirement that the individual successfully complete all parts of the training program as outlined; (3) the assurance that, if a location is available and all other conditions are successfully met, the individual will be placed in a vending facility; and (4) a clear understanding of the alternatives available to the client if a location is not available for that individual upon completion of the prescribed training program or if it is determined that the individual is unsuccessful in training (Alaska, 1991; BEP 2.0; Mississippi, 1990). (An example of a "Trainee Evaluation Report" is included in Appendix B.)

Chapter 8

Business Enterprise Program Operating License Requirements and Operating Agreements

8.1 Obligations of the State Licensing Agency (SLA)

The designation as an SLA for the Business Enterprise Program by the RSA brings many obligations for the SLA. While licensing facility managers is one important responsibility, the SLA must also supervise and manage each facility according to its own rules and regulations, the regulations contained in 34 CFR Part 395, and the terms and conditions of the permit from the RSA, including terminating, suspending, and revoking licenses. Additionally, the SLA must furnish the facility manager with a copy of its rules and regulations and the operator agreement between the SLA and the facility manager, making sure the manager understands them both. Another important function of the SLA is advocacy for its blind facility managers with federal agencies to obtain a greater number of and more lucrative vending facilities (RSA, 1992).

8.2 Definition of License

A license as defined by 34 CFR Part 395.1 and Rehabilitation Services Manual Transmittal 92-13, Chapter 3015 (RSA, 1992, p. 4) is a "written instrument issued by the State licensing agency to a blind person, authorizing such person to operate a vending facility on federal or other property" (RSA, 1992). Vending facilities may include vending machines, cafeterias, snack shops, dry stands, or gift shops.

8.3 Issuance and Conditions of Licenses

General requirements for the issuance of a license is that the applicant be legally blind, a citizen of the United States, and certified by the state vocational agency as qualified to operate a vending facility (34 CFR 395.7(a)). Each SLA has rules and regulations which include objective criteria for licensing qualified applicants. These criteria provided for in the SLA's rules and regulations are embodied in a BEP training program certified by each SLA. The training program of most states includes 4 to 6 months of academic/skills training and on-the-job training, with trainees required to reach a specific level of ability as determined by objective evaluation (Connecticut, undated; Hawaii, undated; Missouri, 1992; Nevada, undated; New Jersey, 1989; Texas, 1992). Upon successfully completing BEP training, the trainee may be issued a license by the SLA, certifying that the person is qualified to operate a BEP facility, or may be issued a license at the time of actual assignment to a facility. Once the licensee is <u>assigned</u> a BEP facility and an operating agreement is executed, the operator's license usually remains effective for an indefinite length of time, unless the license is terminated, suspended, or revoked by the SLA in accordance with state and federal regulations (Connecticut, undated; Mississippi, 1990; Missouri, 1992; Nebraska, 1983; Nevada, undated; New Jersey, 1989; Texas, 1992).

8.4 Expiration and Renewal of Licenses

A license usually expires after a designated amount of time (usually a year), <u>if the licensee has not received an assignment to operate a BEP facility under the terms and conditions of an operating agreement</u>. When the license has expired or is about to expire, the licensee may apply for renewal of the license. In a timely manner, the SLA will evaluate the applicant's qualifications and eligibility for a renewed license and determine if additional training is necessary. The SLA may renew the license without more training, renew the license requiring more training, or not renew the license, informing the applicant of the reasons for nonrenewal (Connecticut, undated; Mississippi, 1990; Missouri, 1991; Nebraska, 1983; Nevada, undated; New Jersey, 1989; Texas, 1992).

8.5 Termination of Licenses

A license automatically expires when the licensee is no longer a U.S. citizen, no longer meets the definition of legal blindness, surrenders his/her license, resigns, retires, or dies. A terminated license may be restored when circumstances dictate at the discretion of the SLA (Connecticut, undated; Mississippi, 1990; Missouri, 1991; Nebraska, 1983; Nevada, undated; New Jersey, 1989; Texas, 1992).

8.6 Suspension or Revocation of a License

Licenses for managers of facilities continue indefinitely unless the license is suspended or revoked according to rules and regulations of the SLA. The following may be grounds for suspension or revocation of a license (Connecticut, undated; Mississippi, 1990; Missouri, 1991; Nebraska, 1983; Nevada, undated; New Jersey, 1989; Texas, 1992):

(1) Failure to open the assigned BEP facility without prior proper approval (abandonment of facility);

(2) Failure to operate the BEP facility according to the operating agreement between the facility manager and the SLA and to other rules and regulations of the SLA;

(3) Failure to maintain equipment in the BEP facility;

(4) Failure to file required financial and other records with the SLA or preserve them for a specified time and refusal to permit a review or audit of records by the SLA;

(5) Consistent failure to pay money due suppliers, the SLA, or any other agency;

(6) Defrauding any agency of the government (including the SLA) or any supplier of any money due;

(7) Misconduct by the facility manager, as defined by state regulations;

(8) Substance abuse (alcoholic beverages, illegal drugs, etc.) while operating the BEP facility;

(9) Operation of a BEP facility in such a way that the SLA's investment is obviously endangered;

(10) An attempt by a facility manager to acquire an existing or proposed BEP facility as an independent operation while operating a BEP facility or awaiting assignment to a BEP facility;

(11) Sexual harassment of employees, customers, or those under the facility manager's supervision;

(12) Delinquency of facility manager in paying taxes, fees, or assessments to any governmental entity;

(13) Failure to protect an existing program or facility because of a deteriorating situation involving the facility manager;

(14) Incompetence or determination by the SLA that the facility manager no longer has the necessary skills/abilities for managing a BEP facility;

(15) Use of the facility to conduct unlawful activities;

(16) Failure to maintain the required insurance coverage; and

(17) Failure to personally operate and manage the vending facility.

States vary in their procedures of suspending or revoking a license. Verbal warnings usually come before a written notice of the grounds for suspension or revocation. Written notice in an accessible format, which includes violations and citation of the violation of rules and regulations, is sent to the facility manager. Other disciplinary measures may include fines or probation with a corrective action plan (Alaska, 1991; Connecticut, undated; Mississippi, 1990; Missouri, 1991; Nebraska, 1983; Nevada, undated; New Jersey, 1989; Texas, 1992). (See Appendix B for a sample "Plan of Action" form.)

Fines may be imposed for failure to comply with the requirement to submit reports or to make payments punctually. No further action may be taken unless the problem is not resolved. If not resolved, other sanctions may be imposed, up to and including termination of the license (Alaska, 1991).

Some states allow a hearing before suspension or revocation in which the facility manager, with aid from the Committee of Blind Vendors, is able to present evidence and arguments that she/he is in compliance with all requirements for retention of her/his license. The manager is usually allowed to continue operating a facility if a hearing is scheduled unless a danger exists to public health or safety and/or an immediate threat of a loss of BEP funds, property, or inventory exists. The facility manager then may be reinstated with full force and no retribution or may have the license revoked or suspended (Missouri, 1992; Nevada, undated).

Some states have an informal review of the allegations with the program and/or executive director and/or Committee in which the manager may present evidence of extenuating circumstances before a decision is made. Other states have a probationary period (unless the facility manager flagrantly violates rules and regulations) beginning with a probationary letter outlining specific violations, the length of the probationary period, the remediation required, and the consequences of inaction. The probationary period is usually 30 to 90 days, though it can be longer or shorter, and depends upon the seriousness of the violation. A clearly stated, written plan (See Appendix B.) for correction of any problems must be jointly developed and agreed upon by the SLA and the vending facility manager. Failure to reach agreement should result in action leading to the facility manager's license revocation. Probation is meaningless unless a plan can be developed and all parties agree to use the plan to correct the perceived deficiencies. If and when performance is improved significantly, the facility manager is removed from probation; if no improvement is made, the license may be revoked, the manager may be moved to a different facility, or the probationary period may be extended (Alaska, 1991; Mississippi, 1990; Nevada, undated; Texas, 1992).

Written notice is given, if a decision is made to revoke the license. The facility manager has the right to appeal (discussed in detail in Chapter 17). Revocation of the license does not absolve the facility manager of any financial obligations incurred in the operation of the facility (Connecticut, undated; Mississippi, 1990; Missouri, 1991; Nebraska, 1983; Nevada, undated; New Jersey, 1989; Texas, 1992).

8.7 Reinstatement after Revocation of License

To be reinstated into the program after the revocation of his/her license, a former licensed manager must apply in writing to the SLA. Available information from BEP and/or SLA representatives and from the former licensee will be considered before the decision to reinstate the manager's license is made (Connecticut, undated; Mississippi, 1990; Missouri, 1991; Nevada, undated; New Jersey, 1989; Texas, 1992).

8.8 Operating Agreements

The operating agreement is usually a condition for assignment to a facility after the manager is licensed. The operating agreement gives the operator the right to use an SLA's facility and contains the terms and conditions of the contract, such as hours of operation, employment practices, and operator performance. The licensed facility manager must enter into the agreement with the SLA to meet the rules and regulations of the SLA. The operating agreement is a contract between the SLA and the facility manager. The SLA cannot change its operating agreement without submitting it for approval to the U.S. Department of Education (34 CFR 395.3 (a)(ll)(iii)). Many of the SLA's required rules and regulations are found in the operating agreement (Mississippi, 1990; Missouri, 1992; Nevada, undated; New Jersey, 1989; Texas, 1992).

What is contained in an operating agreement varies from state to state, but most have general information about the person, agency, and site involved and specific operating arrangements for the facility. An operating agreement contains general specifications such as the names of the persons and the SLA entering into the contract and identifies the facility and its physical location, the terms and conditions of the permit or contract for the facility (usually as an addendum to the agreement), and the length of the agreement. The operating agreement usually includes specifics, such as the state law or regulations governing the managing and operation of the BEP facility; days and hours of operation; insurance requirements; permits and licenses the facility manager must have; the laws and regulations with which the facility manager must comply, including safety and sanitation codes; authorized articles and services available at each facility by the SLA; employment practices required by the SLA; proper performance of the facility manager; any option to purchase equipment owned by the SLA; the facility manager's responsibility related to initial stock; grievance procedures; and reasons for termination of the contract (Alaska, 1991; Mississippi, 1990; Missouri, 1992; Nebraska, 1983; Nevada, undated; New Jersey, 1989; Texas, 1992).

The operating agreement must be signed by the facility manager before beginning operation of the facility. The operating agreement is also signed by the member of the SLA responsible for overseeing the BEP. The SLA keeps the original agreement and sends a signed copy to the facility manager. The facility manager must also sign an acknowledgement before a notary public that she/he has had all documents read and explained to her/him. If the facility manager is transferred to another facility, the initial operating agreement is invalidated, and a new agreement is signed (Mississippi, 1990; Missouri, 1992; Nevada, undated; New Jersey, 1989; Texas, 1992). A facility operator's license may be revoked for not following the operating agreement (34 CFR 395.7 (b)). (Copies of sample operating agreements, including a "Concessionaire Agreement," are found in Appendix B.)

In addition to the operating agreement, many states have operating or training manuals for food services, such as snack bars, cafeterias, and vending machines. The manuals include such topics as purchasing requirements; receiving and storage of supplies; production standards; food preparation; equipment concerns, such as inventory and record keeping; service and repair authorization; setting up financial files; financial reports to be provided to the SLA; employees' roles and responsibilities; employee procedures related to payroll, personnel files, performance evaluations, accident and injury reports; job descriptions; emergency procedures; safety requirements; housekeeping and sanitation; and customer service procedures (Connecticut, undated; Missouri, 1992; Nevada, undated).

Chapter 9

Selection of Facility Managers

9.1 Vacancy Notification Process

Vacancies will be announced with an established deadline date and with as much advance notice as possible to permit all eligible licensed facility managers to apply. The announcements will contain the location of the facility, the type of facility, a general description of services and location, scheduled hours of operation, list of equipment in the facility, items currently sold and items which cannot be sold, accessibility of the facility (transportation, etc.) and physical requirements, staffing pattern, deadline date for letter of interest and/or application, and actual monthly net sales of the facility during the past 12 months along with any other pertinent facility information. New facility announcements will contain estimates of average monthly net sales based on potential patronage. The information in the announcement is not a guarantee of sales, but a best guess estimate based on current available data. Current BEP facility managers will have preference over others. Displaced vendors (through no fault of their own) usually have first priority for a comparable facility (Alaska, 1991; Mississippi, 1990; Nevada, undated; New Jersey, 1989; Texas, 1992).

9.2 Eligibility of Facility Managers

All BEP facility managers who have successfully completed a BEP training program are licensed for placement with a facility which meets his/her qualifications and abilities. Operating a dry stand or a vending machine facility requires much different abilities, managerial and interpersonal skills, training, and experience than operating a cafeteria, where more federal and state regulations exist and which requires a greater degree of control in determining prices of prepared food.

9.3 Assignment of Facility Managers

Assignments, reassignments, and promotions depend upon the availability of facilities. Facilities may become available because of new facility developments when a facility manager dies or becomes severely incapacitated; leaves voluntarily because of health, dissatisfaction, retirement, transfer, or promotion; has her/his license revoked; is suspended; or experiences a sight recovery so that he/she is no longer legally blind.

Established vending facility managers currently in the program generally have first priority for vacancies or new facilities in the program. When this is not practical or possible, a qualified applicant will be chosen from the list of prospective vending facility manager applicants. Determining who will fill a vacancy varies considerably from state to state. Some states allow the State Committee of Blind Vendors almost total control over placing licensed facility managers; others have an equal partnership between the SLA and the State Committee of Blind Vendors; others have committees composed of a building manager or representative (where the facility is located), a member of the State Committee of Blind Vendors, the BEP manager or supervisor, and a member of the SLA outside the BEP or other variations; and others give the State Committee little or no voice in filling vacancies.

Methods of deciding who will fill the vacancy also vary greatly from interviews, objective and subjective evaluations, past performance of BEP operations, and seniority. When exceptions to rules or procedures may be made, the concept of an exception to a rule should be specified in an SLA's procedures manual. Likewise, the SLA should clearly state its policy for handling/considering out-of-state applicants who have seniority in other Randolph-Sheppard programs. The SLA has final responsibility for the operation and administration of the program (Connecticut, undated; Mississippi, 1990; Nevada, undated; New Jersey, 1989; Texas, 1992). (Sample forms, including "Application for Selection, Transfer, or Promotion" and "Expression of Interest in Available Vending Facility," are located in Appendix B.)

9.4 Promotion of Licensed Facility Managers

Upward mobility is encouraged through further education, additional training or retraining, and promotion to other types of facilities. Promotions to new facilities depend upon the availability of suitable facilities. All eligible licensed managers (with preference for current operators) will be given an opportunity to apply in writing for placement at the vacant or new facility. Some states have levels of facilities through which licensed managers must progress. Depending upon the state, the progression of levels may depend upon the type of facility, complexity of work requirements, or the amount of earnings the facility generates. As the facility manager gains experience and has additional training, she/he can move to a more lucrative facility (Connecticut, undated; Mississippi, 1990; Texas, 1992).

9.5 Selection Criteria for Placement at a Facility

When selecting eligible licensed managers for a facility, several criteria must be considered, including but not limited to, the following (Mississippi, 1990; Texas, 1992):

(1) Managerial and other skills and abilities demonstrated by the licensed managers under consideration as they fit the type of available facility, including handling labor needs, complexity of financial skills needed for food production, food preparation, and customer relations;

(2) Previous records of the licensed manager under consideration, including submission of required reports in an accurate and timely fashion; customer satisfaction; improvements in profits or number of customers due to the manager's abilities; safety and sanitation inspections (if required); fee and bill payment history; attendance at training meetings; and past evaluations by the SLA; and

(3) Seniority of eligible licensed managers when all else is equal.

9.6 Partnerships

Facility partnerships are situations in which two or more facility operators are placed in a co-manager relationship to operate the same BEP facility. SLA practices vary, and relatively few states have formal policies under which more than one operator is assigned to the same BEP facility. Many facility operators view "forced partnerships" as a practice which places arbitrary limits on income and are contrary to the business-oriented philosophy and entrepreneurial spirit of the Randolph-Sheppard program (NFB, 1994). SLAs should clearly articulate their policies and practices regarding this controversial issue.

Chapter 10

Guidelines for Location of Vending Facilities

10.1 Acceptable Sites for Vending Facilities

Vending facilities may be located on federal, state, or other property. federal property is any building, land, or other real property owned, leased, or occupied by any agency, department, or instrumentality of the United States (including the Department of Defense and the U.S. Postal Service), or any instrumentality wholly owned by the U.S. or by any department or agency of the District of Columbia or any territory or possession of the U.S. Other property subject to federal law is state or private property on which vending facilities are established or operated by use of any funds, directly or indirectly, from the operation of vending facilities on any federal property. Vending facilities on state property are covered by state "mini-Randolph-Sheppard" laws and usually are located on state property and in state buildings. Some municipalities have also enacted laws which give the SLA priorities and advantages in locating vending facilities.

10.2 Priority of Vending Facilities on Federal, State, and Private Property

(1) Federal Property

Each department or agency of the United States which maintains, operates, or protects federal property must assure that one or more vending facilities for operation by blind licensees is located on its property, if the location or operation of the facility does not adversely affect the interests of the United States. Individuals who are blind are given priority in operating vending facilities on any federal property. Direct competition is allowed only if the majority of employees in certain areas do not have access to the BEP facility (34 CFR 395.30(a); RSA, 1992).

(2) State Property

States which have a mini-Randolph-Sheppard law usually give priority to blind vendors in their vending facilities. State law dictates the types of buildings covered and the types of facilities which can be installed. Each SLA should include laws and regulations which pertain to its state in its procedures manual.

(3) Private Property

Randolph-Sheppard vending facilities for individuals who are blind have no priority on private property. They are in direct competition with commercial vendors and chain and franchise operations. These sites are obtained on an individual basis through negotiation or bid. These facilities are governed by the SLA and must meet requirements specified by federal and state law.

10.3 Satisfactory Site Requirements

Listed below are satisfactory site requirements for federal, state, and private property. Before installing a facility on any property, a feasibility study should be done to provide definitive planning and guidance. Federal and state property have various procedures for developing a facility.

(1) Federal Property

Before a department or agency of the United States buys, rents, leases, or occupies all or part of any building, it must make sure that the building includes a satisfactory site for the location and operation of a vending facility by a blind vendor. A representative of the U.S. department or agency and the SLA consult to determine if a satisfactory site is available. A feasibility study should be completed to determine the likelihood of success on a given property. The SLA should be notified in writing at least 60 days before intended acquisition or occupation of the building so that determination of a site can be made by the SLA (unless the agency has specifically planned for a vending facility site in the building). The SLA must send written notice within 30 days to indicate its interest in establishing a vending facility.

A satisfactory site for a vending facility is an area fully accessible to facility customers. The location should have a minimum of 250 square feet available for the vending and storage of articles necessary for its operation. The site also should have sufficient electrical, plumbing, heating, and ventilation outlets for the location and operation of the facility according to applicable health laws and building codes (RSA, 1992).

The satisfactory site provisions do not apply if fewer than 100 federal employees are in the building during normal working hours or if the building contains less than 15,000 square feet of interior space and services are provided to the public. However, vending facilities may be located in buildings smaller than 15,000 square feet or with an employee population less than 100 if both the SLA and federal property manager agree (34 CFR 395.31(d)).

(2) State Property

Satisfactory sites for a BEP facility are determined in various ways according to the state. Some states have laws which specify requirements for location of facilities within state buildings. The type of facilities located in a specific building usually is determined by the number of square feet in a building or the number of employees to be served in that building, depending upon the specific regulations of a state. If the number of employees in a building is less than a specific number (determined by the state), no facility is located in the building; if the building has a specific number of employees, vending machines and/or a snack bar may be located in the building; if the building has over a specific number of employees, a cafeteria may be located in the building. Sometimes the amount of square feet in a building determines whether any type of facility is located in the building and what type of BEP facility the building could support.

In some states, the head of the agency occupying the building may request a facility; in other states, the state requires that a building have some type of BEP facility (usually depending on employee population or square footage of the building). If an agency in a building requests some type of facility and the SLA determines that a BEP facility is not feasible, a permit is usually given, allowing the agency to set up its own vending facility.

(3) Private Property

When determining whether to place a BEP facility on private property, the SLA must carefully consider the facility's likelihood of success. The major factors to consider are the number of potential customers at the site, the type of facility to best serve these customers, and a long-term projection of performance at the site.

Chapter 11

Procedures for Establishing a New Vending Facility

11.1 Program Expansion

Because of the nature of the BEP, new facilities must continuously open or be upgraded to allow new persons to enter the program and to provide upward mobility for those already in the program. Once a person enters the program and becomes established, turnover is very low. The main way of increasing employment opportunities is to increase the number of facilities.

11.2 Requirements for a Permit or Cafeteria Contract on Federal Property

(1) Permit

Federal agency property managers are required by law to inform SLAs of potential site locations. Prior to the establishment of any vending facility, the SLA must submit an application for the permit to the head of the federal agency or department managing the property. The application should include the location; the amount of space necessary for operating the facility; the type of facility; the equipment, the number, location, and type of vending machines; and other terms and conditions. The head of the department or agency managing the department will inform the SLA in writing of approval or disapproval and the reasons for disapproval. The Department of Education form PB3 P5875.2A "Application and Permit for Establishment of a Vending Facility on Federal Property" is the instrument of formal agreement establishing the vending facility (34 CFR 395.35). (See Appendix B for a sample form.)

(2) Contracts for Cafeterias

BEP vending facility managers are given priority in operating cafeterias on federal property if the facility can be operated at a reasonable cost with food of a high quality compared to other providers of cafeteria services (GSA, 1994; USDE, 1988). Federal regulations provide two ways of application for the priority. One way is if the federal property manager initiates direct negotiations with the SLA. The second way is if the SLA is invited to respond to bids when a cafeteria contract is considered by a property managing department or agency. All responses are to be judged according to established criteria, including sanitation practices, personnel, staffing, menu pricing and portion sizes, menu variety, budget, and accounting practices. If the proposal received from the SLA is judged to be within a competitive range and has been ranked among the proposals which have a reasonable chance of being selected for the final award, the federal property manager is required by law to award the contract to the SLA.

11.3 Site Analysis

A site analysis of the proposed BEP facility looks at a survey of the physical location within the building, the structure of the location, the physical components of the building (such as electricity and plumbing), the location within the building, the neighborhood of the building, the competition, and other services in the building. (See "Vending Facility Initial Site Survey" in Appendix B.) Some SLAs have a designated person who not only analyzes the site, but also analyzes the market to determine what facility, if any, would work in the location. Other SLAs have an architect who gathers detailed information on the site and what it will take to install a specific facility, then passes the information to an administrator who makes the final decision as to whether or not the site is appropriate for a BEP facility. Most SLAs have a reporting form which asks for specifics on the physical location, including how much space is available; whether electric, water, gas, heating and cooling, sewage, and ventilation systems are sufficient or located in the proper place; and how accessible the available space is to customers, suppliers, and services (Mississippi, 1990; New Jersey, 1989; Texas, 1992).

Federal property maintained by the GSA has a method of determining service levels for a building and a process of requirements to follow to obtain approval for space for a BEP facility (GSA, 1994). The first step which activates the process is "space requests," construction actions (new or renovation), agency requests, satisfying Randolph-Sheppard requirements, and/or expiration of existing contracts" (p. 1-1). A feasibility study is then done (using forms and worksheets required by the GSA) to "determine existing food services in the building, available area food services, and agency mission needs" (p. 1-2). The feasibility study helps management determine the "essential need" of the building population. Essential need for the building may be a cafeteria, on-site preparation or prepackaged facility, sundry stands, or vending machines. After the essential need is determined, the GSA gives proper consideration to accessibility to patrons and the location of utilities, air conditioning, heat, ventilation, receiving, trash disposal, etc. Refer to the *GSA Concessions Management Desk Guide* (GSA, 1994) for further information.

11.4 Market Analysis

Market analysis includes a survey of the demographics of potential customers, a description of the type of facility wanted by the management to determine if the site or the SLA can accommodate customer needs, an analysis of the competition, and a determination of whether or not the site will support a successful BEP facility. Demographics describe the potential customer base, including the number, age, and type of workers, average salary, normal working hours, and times of breaks and meals (Spann, 1985a).

A competition analysis is necessary to identify competition inside and outside the building which has similar services or goods and to determine whether or not the competition is satisfying customers' needs. Federal locations soliciting bids for contracts almost always include an estimate of their monthly gross income in their solicitations (Minton & Spann, 1984; Spann, 1985a; USDE, 1988). Competition analysis of state and especially private sites is extremely important because, in a time of declining resources, most SLAs cannot afford the loss of money resulting from a failed BEP facility. (See Appendix B for samples of a "Survey of Location" and "Employer Contact Report.")

Knowing the type of facility wanted by the building's management means that the SLA knows the wants and needs for the facility. To secure a bid for a contract or negotiate a permit requires that the SLA meet management's needs. After analyzing the site and market, the SLA may not judge that the type of facility asked for by management will be successful, and alternatives may be suggested (Minton & Spann, 1984; Spann, 1985a).

11.5 Designing the Facility

Once the SLA determines that a BEP facility in a specific location is economically feasible and in the best interest of the SLA, decisions are made about the design of the facility. An architect or staff person within or consultant outside the SLA designs or lays out the facility. If the building management pays for part of the initial costs, they may become involved in the planning and building of the facility to make sure their needs are being met (Mississippi, 1990; New Jersey, 1989; Texas, 1992).

11.6 Planning the Fiscal System

If the SLA does not have a specific system of forms and reports for the vendor to provide specific information to a centralized record keeping office, it must plan a system for the new vending facility (Minton & Spann, 1984). Federal law requires that financial records and reports are available for audit purposes (34 CFR 395.3)(a)(11)(ix)).

11.7 Vending Facility Equipment

The SLA is responsible for furnishing the vending facility with adequate, suitable equipment necessary for the establishment and operation of the facility (34 CFR 395.3(a)(5)). The equipment may be purchased new or obtained from SLA inventory. Usually, the SLA requests equipment when all concerned parties agree upon an opening date.

11.8 Initial Stock

The SLA is responsible for developing policies in making available initial stock, including accessories, operating supplies, and merchandise suitable to the location and sufficient to allow the facility manager to initiate operation of the facility. These vary according to the type of facility operated--vending machines only, snack bar, gift shop, or cafeteria.

Accessories consist of usually portable items which may be broken or lost, have a useful life of less than 1 year, and are not considered part of the SLA's equipment inventory. Accessories include pots, pans, cutlery, glassware, and dishware. Initial operating supplies are usually disposable items considered necessary in operating the BEP facility including paper plates and cups, napkins, coffee filters, plastic cutlery, and cleaning and sanitation supplies. Initial merchandise includes goods purchased for resale necessary to open the facility. The facility operator is responsible for purchasing additional operating supplies and merchandise for resale other than the initial stock. Many SLAs use state general fund monies to match federal funds in purchasing the initial stock. Some SLAs require the facility manager to reimburse the agency for the cost of initial stocks and supplies, including the start-up cash necessary for the facility. This ensures that the inflated value of stock and supplies for a facility are always covered through the purchase of the ending inventory of a departing facility manager by the incoming facility manager (Alaska, 1991; Mississippi, 1990; Missouri, 1992; Nebraska, 1983; Nevada, undated; New Jersey, 1989; Oregon Commission for the Blind [Oregon], 1987). Other SLAs provide for low interest loans to pay initial costs. The facility manager makes monthly payments to the SLA as part of his/her operating expenses.

Chapter 12

Policies for Closing Vending Facilities

12.1 Reasons for Closing Vending Facilities

An SLA reserves the right to close a BEP vending facility for any appropriate reason. However, all reasonable alternatives and possibilities usually are exhausted prior to taking such action. Reasons for closing a facility include failure of the facility manager to make an adequate income; the facility becomes substandard; building management requests closure of the facility; contracting agency moves to a different building; or contracting agency cancels or does not renew agreement with the BEP (Mississippi, 1990).

Before closing the facility, the SLA should evaluate the reasons for closure to determine if the facility may be retained if changes are made. If the facility manager's income is too low, a representative/counselor of the SLA should discuss the situation with the contracting agency and the facility manager to determine the factors for the low income in the location. Factors which may contribute to the problem include low building population; low percentage of population in the building using the facility; competition of other similar facilities in the area; determination that expenses, prices, costs, etc. are improper and incorrect; lack of good selection of properly prepared and displayed products; lack of good value on items for sale; facility is not clean and inviting to customers; and facility is too large or costly for the building population. After determining what the problems are, a decision may be made to improve the situation, such as substituting vending machines for other types of facilities, correcting problems with the manager or replacing the manager, downsizing the facility to meet the building's needs more appropriately, or combining the location with another. If the situation cannot be improved, a recommendation is made to close the facility (California, undated; Mississippi, 1990).

When a contracting agency moves to a new building, the SLA should determine whether a facility should be closed, downsized, or combined with another facility, or if vending machines could be added. What is to be done will depend upon where the agency is moving; when its population is moving; if and when another agency is moving into the building; and how many employees will be in the building and for how long (California, undated).

If a contracting agency cancels an agreement with the SLA, the SLA must determine whether to close, downsize, or combine it with another facility. When evaluating the cause for the cancellation, the SLA is to determine why the facility is no longer needed at the location, whether a problem existed with the facility manager or with the program, and whether the agency will need to substitute the facility with vending machines, still giving someone a chance at employment (California, undated).

If a state contracting agency cancels an agreement at a profitable location, the SLA should attempt to retain the facility. As noted earlier, most states have "mini" - Randolph-Sheppard Acts which protect the interests of the facility under most circumstances. If an SLA disagrees with the state contracting agency, arbitration or some means of administrative review will resolve the dispute. Similar disagreements with contracting agencies at federal locations (34 CFR 395.37) are subject to arbitration.

12.2 Procedures for Closing a BEP Facility

Because the SLA supplied the initial stock and supplies, accessories, and equipment or provided a means for the manager to own the equipment and initial stock (and may buy it back) for opening a BEP facility, all must be inventoried to identify what can be used at other locations, what can be sold, and what should be discarded (Mississippi, 1990; New Jersey, 1989). Federal requirements for management of equipment and supplies are found in the *Education Department General Administrative Regulations (EDGAR)*, Parts 80.32 and 80.33 (USDE, 1992). Individual states have laws and regulations governing the transferral, sale, and disposal of state property and forms which must be used for accounting and auditing purposes or buying equipment or stock from a manager who owns it. (See Appendix B for sample forms.) Each SLA procedures manual should include its state's procedures and forms for transferring equipment within and outside the BEP and for selling and disposing of equipment not usable in the BEP.

12.3 Inventory and Placement of Equipment

Federal rules and regulations specify that the SLA is responsible for making available the means for furnishing each vending facility with adequate and suitable equipment necessary for its establishment and operation (34 CFR 395.3(a)(5); RSA, 1992). SLAs must provide rules and regulations to ensure that the right or title to or interest in the equipment used in the program's vending facilities are "vested in accordance with the laws of the State" in only the SLA; its nominee as specified by RSA regulations; or the vendor (RSA, 1992, pp. 16-17; 34 CFR 394.4(c)).

Inventory of equipment is necessary when the SLA owns the equipment. The SLA must decide if the equipment should be transferred to another location, stored, sold, or discarded. (See Appendix B for a "Closing Inventory" form.) Equipment on state inventory lists have stringent guidelines to follow, and money gained from the sale of equipment must reimburse the federal government on a specific ratio, if bought partially with federal money (Mississippi, 1990). If the SLA allows facility manager to own the equipment, the SLA has first option, if it so desires, to repurchase the equipment (RSA, 1992). The SLA is not required to buy it.

If the piece of equipment is purchased at less than a specified sum of money, it probably will not be on state inventory and does not fall into the same category as major pieces of equipment such as, commercial stoves, refrigerators, or freezers. Accessories such as dishes, small broiler ovens or deep fryers, and chairs under a certain price fall into this category also. If possible, the BEP will use such equipment and accessories. If they cannot be used at another facility, usually, they can be sold or disposed of at the discretion of the SLA, though some states require that SLAs inform them of how they disposed of these items (Mississippi, 1990).

12.4 Inventory and Disposal of Initial Stock and Supplies

Federal rules and regulations specify that the SLA is responsible for furnishing each vending facility with adequate and suitable initial stock necessary for its establishment and operation (34 CFR 395.3(a)(5); RSA, 1992). States may provide the initial stock, receiving their investment back if the facility closes. A deposit by the facility manager may be required to protect the SLA's investment in the initial stock. Another way of providing initial stock is through low-interest loans for the manager to buy his/her own initial stock.

States which provide initial stock and supplies for beginning facility managers specify that the same amount of investment is to be left at the facility when the facility managers leave. In these states, outgoing managers are responsible for paying the difference when final stock inventory value is less than initial stock and supplies inventory value (Mississippi, 1990; Texas, 1992). The SLA decides what constitutes usable stock in closing a vending facility (quality, quantity, and type of merchandise) to avoid "purchasing" too much stock, damaged or shop-worn stock, or inappropriate stock (Mississippi, 1990).

Other states provide low- or no-interest loans for facility managers to purchase initial stock (RSA, 1992). In most of these states, the facility manager is ultimately responsible for disposing of stock when the facility closes, though SLAs have first priority at buying the left-over stock or may arrange for an incoming vendor at another location to purchase the stock.

12.5 Closing Out Financial Records

The facility manager is responsible for submitting all financial records required by state and federal law. The SLA is responsible for administering the BEP and must take whatever action is allowed by law to obtain proper financial documentation and recover monies owed, if any, to the program by the facility manager (Mississippi, 1990; RSA, 1992).

12.6 Placement of Operators from Closed Facilities

Facility managers whose facilities are closed are eligible to reapply for the program. (In some states, those operators who lose a location through no fault of their own have the first chance at a comparable facility.) The BEP counselor/representative for the manager should ensure that the manager understands this, and should inform the appropriate BEP staff of the manager's need for another facility, especially if the facility closed through no fault of the manager (Mississippi, 1990).

Chapter 13

Model Merchandising Procedures

13.1 Tasks of Merchandising

Merchandising is "a set of ideas and techniques for relaying goods from suppliers to customers" while making a profit for the facility (Hawaii, undated, p. 19). Merchandising in a facility usually consists of market analysis, selection of products to be sold, pricing of products to be sold, display of products, promotion of the facility in general and the products specifically, and customer satisfaction. Market analysis studies customers in depth to determine their buying and eating preferences. The market analysis will determine the type of facility needed (when opening new facilities) and types of products to be sold to a building's clientele. The display of products involves attracting the customer's attention and allowing the customer access to the product. Pricing involves setting a competitive price. Promotion attracts customers to the facility and encourages sales. SLAs should have strong training programs which emphasize the aspects of merchandising and strategies which will enable facility managers to make a profit and provide an adequate income level.

13.2 Responsibilities Involved in Merchandising

Merchandising responsibilities for a BEP facility are usually shared by the facility manager, the SLA representative/counselor, and possibly the agency or department managing the building. If a BEP facility is on federal property, and sometimes state and private property, the permit or contract usually specifies what products are to be sold and sometimes the price range of products. Some states have specific rules and regulations about pricing and products sold, with the facility manager needing approval from the SLA to change prices or add products or services. The facility manager, usually with advice from the SLA representative/counselor, determines strategies for displaying, promotion, and advertising. The SLA representative/counselor is involved to ensure that the facility makes a profit which further ensures the success of the specific facility and others in the BEP.

13.3 Market Analysis

A market analysis is necessary to develop a merchandising plan for the BEP facility (Spann, 1985a; 1985b). Before a facility is opened, a market analysis should have been done by the SLA to determine the needs and wants of potential customers in the building served by the facility. However, after a period of time, the market can change. New offices and new people may move into the building; positions are eliminated; employees retire or move to jobs elsewhere; people change their lifestyles (get older, get married, get sick and have diet restrictions); or customers get tired of the same choices day in and day out. Because of shifts in the customers' needs and wants, the market changes, making later market analyses necessary.

A market analysis explores potential customers in depth and shows what is popular with customers who can be reached by the facility. Demographic and behavioral information is studied to determine what people eat and buy when they have a choice. Demographic data includes gender, salary range, type of occupation, age, marital status, and ethnic background. Behavioral information is observable actions and include such actions as when people come into the facility; whether customers are alone or with someone; whether customers stay at the facility or take the food or goods with them; what the customers look like and wear; or anything inferred from observation (Spann, 1985a; 1985b). The market analysis is best done by or with the advice of a BEP representative who usually knows more about this activity than the facility operator. A facility employee could be used to do some of the market analysis activities.

The four ways most often used to determine buyer behavior and which can contribute to a market analysis are a survey, analysis of sales, observation of customers and non-customers in the building, and comparison shopping with other retail and food service operations in the surrounding area, whether inside or outside the building (Spann, 1985b).

(1) Survey

A survey is the most common way of finding out information about potential customers. Surveys of a building should be done at least every 3 years unless the population of the building changes more frequently. Good surveys of a building are costly in money and time, and must ask the right questions to get information helpful to a facility. To make sure that the survey accurately depicts the population of the building, a correct sample (random or stratified) must be determined. Informal written or oral surveys of customers using the facility are also helpful.

Other than poorly constructed surveys, the most common problem is getting customers or potential customers to complete and return the survey. Most people do not want to be bothered with a long written survey which takes up a lot of their time. An oral survey is one way to have more complete results. Once a person's attention is obtained and he/she agrees to answer the questions, the information needed can be obtained in a few minutes. Another way to persuade people to take a written or oral survey is to give a reward. The reward may be a coupon for a free cup of coffee, a candy bar, or snack item when the person brings a completed survey back to the facility (Spann, 1985b).

(2) Sales Records

Facility sales records are another good way of analyzing the market. Most businesses are set up on some type of cycle, whether 28-day cycles or quarterly cycles, for the basis of a budget and inventory system to determine sales for the cycle. Looking at the cycles, the facility manager can determine what has sold best. Further, comparing the cycle (quarter or 4-week period) for this year with the same period of time last year or the year before will show seasonal changes and patterns in sales and types of product sold. The patterns which appear can help a manager determine what and when to buy for a certain season, when more or fewer employees may be needed, and when advertising or heavy promotion may be needed. The computerized cash register with department keys or product keys can print out or speak out a record of sales of each item or department and are invaluable in determining what items are popular (Spann, 1985b).

(3) Comparative Shopping

Comparative shopping is another good use of market analysis. An employee of the facility or BEP representative can very easily check out the competition in the building and in the surrounding area, especially where employees from the facility's building tend to go, and check out similar retail and food service facilities in other areas to look at product lines, specials, pricing, and operations which may be adapted to the manager's facility, along with the customers targeted and served (Spann, 1985b).

(4) Observation of Potential Customers

Another way to determine the potential market is to observe customer or potential customer behavior. A BEP representative or an observant employee of the facility may observe customers who use the facility and persons who do not use the facility. By noting their coming and going in the lobby or entrance during lunch or other peak times, one can formulate a marketing strategy for the facility; note whether a customer is alone or with someone; what types of things they buy or bring with them to eat; who is with the customer--a friend, business associate, or member of their family; what the customer is wearing (such as walking shoes with business attire, showing that the customer may be exercising during her/his lunch hours); what types of store bags or other items they carry with them; whether they go straight to the item they want or look around for a while; what makes them notice an item, even if they do not buy it; what impulse items are popular (such as breath mints or gum); and how people react to a certain food item. Knowing these behaviors can help a manager determine what customers find appealing or what they might want. For example, if a number of customers bring salads or health foods with them when eating with others, they may want more health-conscious food not provided by the facility; if customers buy only soft drinks at the facility and bring their own food with them, different food items need to be offered; if the customers pick through the pantyhose, magazines, newspapers, and throw them down in disgust, maybe the facility needs to change or expand its lines.

When observing people who do not frequent the facility, look for clues as to what they may be doing during lunch or where they may be going. Note whether they bring back take-out food; whether groups of people leave together; if they take their briefcases or sports bags; or whether they walk somewhere nearby or drive away. Some people may run errands, do business, exercise, or meet friends at lunch. Some people may not be able or want to eat fried foods. If the facility is not a food facility, some people may not be interested in the magazines, newspapers, gifts, cards, or candy which the facility offers. Observing people in the building can give many clues as to what the market of a facility is or can be.

13.4 The Merchandising Plan

After determining who a facility's customers are through the marketing analysis and what their wants and needs are, a merchandising plan should be developed. A merchandising plan provides a basis on which actual results can be measured; a facility manager can see what has succeeded or failed and what should be kept or changed. A merchandising plan should include strategies on types of products and promotional items; pricing of products; displaying merchandise to attract customers and increase sales; customer satisfaction; and promotion to attract customers to the facility (Hawaii, undated; Mississippi, 1990; Nevada, undated; Spann, 1985b).

(1) Products

While the products specifically sold in the facility should depend on the customers' preferences, the variety of products sold in a BEP facility depends on the size and type of facility. For example, cafeterias sell hot and cold prepared food and soft drinks, along with impulse items such as candy or gum near the cash register. Snack bars usually sell sandwiches, food which can be prepared easily, beverages, snack foods such as candy, pastries, and gum, and some miscellaneous items such as cigarettes and tissue. Convenience stores and dry stands provide a wide range of packaged snacks and drinks and a limited variety of items, including candy, potato chips and other snacks, gift items, toiletries, and other items as dictated by the location of the facility. Vending machines can sell sandwiches, coffee, soft drinks, gum, candy, foods which can be heated in a nearby microwave, and other snack items. Usually the types of product sold is specified in the permit, contract, or operator's agreement with property management or the SLA. Sometimes, facility managers are not allowed to add or delete lines of merchandise without approval of the SLA or consent of property management.

Four types of products may be sold in any type of facility: basic stock, seasonal stock, trendy stock, and thematic stock (Spann, 1985b). Basic stock includes products which you cannot be without because of consistent demands by customers. For some facilities, basic stock may be gum or newspapers, while for others it might be hamburgers and colas. These are items a facility manager cannot afford to run out of because they make up the majority of what is sold in the facility. Seasonal stock is similar to basic stock except that it is sold in cycles. Hot cocoa sells better in winter, while ice cream sells better in summer. Similarly, gift shops may sell much Halloween and Christmas merchandise on those holidays.

Trendy merchandise is fad products. A facility operator should avoid fad products to prevent being stuck with an inventory which will not sell. If a facility manager gets in on it in the beginning of the fad, she/he can make a lot of money. But if a manager gets in on it too late, she/he can end up stuck with a lot of unsalable merchandise. Thematic stock focuses on merchandise for a specific group within the building which probably would not sell in another building. These facilities are usually gift shops in buildings where people from all over the state, region, or country train for a week or more in a workshop or school or visit because it is a historical or well-known landmark.

Strategies involved in promoting certain products include knowing how fast various products turn over, rotating stock to ensure freshness, discontinuing lines of merchandise which are not selling well, ensuring product quality, ensuring quality control procedures are followed, adding new product lines and services, and ensuring customer satisfaction with products. From the market analysis, a manager can determine what products should sell best to customers. This in turn determines the cycle of stock turnover which tells a manager how often to order certain merchandise to keep up with demand.

Even though a market analysis might suggest certain items will sell well, sometimes intervening factors not noticed in the market analysis will prevent these items from selling well. Quality of the product, level of sophistication of the customer, or factors which the manager cannot even know can affect the sale of some items.

No matter what strategies are used, the bottom line is customer satisfaction with the product. If the customer is not satisfied with the product, she/he will not buy that product again. If the customer is not satisfied consistently (usually because of poor product quality or poor quality control measures), the other strategies will not make much of an impact on the success of the facility. Types of products for a specific type of facility, product quality, product inventory, and other relevant product concepts should be thoroughly discussed in the SLA training program for the BEP facility operator.

(2) Pricing of Products

Pricing is a very important, and sometimes complicated, part of merchandising. In some cases, the manager determines the prices; in others, a contract or permit specifies price ranges; while in others, the SLA or BEP has a specific pricing strategy. The BEP facility is in business to make a profit. Though some facilities tended to underprice products for food services in the past, SLAs cannot afford to maintain a facility which does not make a reasonable profit, especially during a time of dwindling resources. Profits can be made by selling products at a higher price, buying products at a lower cost, and buying in volume so prices can be reduced. The facility manager must set prices high enough to cover expenses and provide a profit, yet low enough to attract customers and compete with other similar businesses. A facility is competitive when it provides a needed product or service at a reasonable price, yet still gives the facility manager a fair profit. The setting of prices in a cafeteria becomes even more complicated because the costs of raw food, labor, and other expenses must be considered when pricing a finished product. Though underpricing is usually the main problem in a facility, sometimes a facility manager may overprice products, especially when they have a captive customer base (such as in a secluded building with no other competition). Some SLAs have a means in place of bringing prices back to normal, when they become aware of the problem. If there is a permit, contract, or operating agreement which specifies price, the manager can usually be persuaded to restore reasonable prices, with a reminder of the terms of the agreement, contract, or permit. If not, a designated person may have the authority to reduce prices or raise prices (with appeal procedures) or designated person(s) from the SLA and BEP staff may meet with the facility manager to decide the selling price (Connecticut, undated; Missouri, 1992). Any BEP regulations and rules related to pricing and good pricing strategies should be thoroughly discussed in the SLA training program for facility operators.

(3) Displaying Merchandise

Displaying merchandise in an organized, clean, and attractive manner is not just to make the facility look nicer; it is a way of increasing sales by attracting customers. Overall display of all merchandise and specific displays of merchandise is important. When merchandise is grouped in categories, such as all the candy in one specific place, or function, such as placing doughnuts next to coffee, products are more easily found by customers.

Sometimes grouping according to function results in impulse or point-of-sale buying by the customer, who might not have been tempted by the doughnut while buying coffee. Other impulse items are placed near the register or in a main thoroughfare where customers can easily see them and be tempted enough to buy them when they are buying something else or when they even do not know what they want. Other impulse items may have a special display to attract attention.

Special displays can bring products out of the background of other products and are used to highlight new products, a special promotion by a supplier, holidays and special events, and products of current interest. Special displays are temporary and are changed constantly to attract attention and sell more items. Sales reps and route men can assist vendors with displays (Connecticut, undated; Hawaii, undated; Minton & Spann, 1984).

Special displays and impulse items should be those which have good profit margins. Displays take up a large amount of valuable sales space and those containing 5- and 10-cent profits per item do not generate enough dollar income to justify the space to accommodate them (Iowa Department for the Blind, personal communication, June 9, 1994).

This discussion of displays has been a rudimentary explanation. The SLA should ensure that this area is thoroughly discussed in the BEP training program.

(4) Promotional Activities

Promotional activities are very important tools of the merchandising plan. Promotion is a way of bringing customers to the facility to buy specific products. The facility or specific products can be promoted by the facility manager.

Promotion of products or services stimulates sales, increases customer traffic, builds patronage, rewards customers, and cleans out older stock. Promotions can offer new merchandise, merchandise which is overstocked or slow-moving, or theme or holiday merchandise. Some facilities might offer a special of the day or give away candy canes at Christmas. All of these strategies give customers a reason for coming into the facility, and usually they buy more than the promotional item (Connecticut, undated; Hawaii, undated).

BEP facilities seldom use newspapers, television or radio, or direct mail as advertising venues because their customers typically are not the general public, but those who work in a specific building. Because of this, other types of promotional activities must be used. These include using professionally printed or manufacturers' signs to announce sales or new items and hanging them in elevators, hallways, and windows and on bulletin boards (if allowed by the property manager); handing out flyers with purchases or to customers walking by or placing them in the building mailing system; placing signs on placards outside the door or in the windows of the facility; marking the specific items on special with signs; advertising in the company or agency newsletter or trying to have an article or column devoted to the facility; using coupon specials in newsletters or flyers; and using bags with the store's name and logo on it (Spann, 1985b).

(5) Customer Satisfaction

The facility is promoted best by customer satisfaction and good customer relations by the facility manager and employees. Most BEP training programs emphasize how important customer relations and customer satisfaction are, but the facility manager and employees must make an effort to develop friendliness, courteousness, consideration, patience, and tact for and attention to customers. A customer is impressed when a facility employee remembers his/her name and tastes. Not developing good customer relations can negatively affect profits and customer return (Connecticut, undated; Spann, 1985b).

While customer relations is a large part of customer satisfaction, other factors such as quality and price of products, amount of time to wait for service, and cleanliness of the facility can greatly influence customer satisfaction. Handling of complaints about any of these factors impacts customer relations and customer satisfaction. A specific procedure for handling complaints, including an apology and a rapid response to the complaint is needed. A suggestion box for complaints, praises, or suggestions may be appropriate. Employee name tags can help customers remember who was or was not helpful when reporting problems with employees, and a sign with the manager's name on it gives the customer a second place to go for help. Customer service training for managers and other facility employees should be included in the BEP training program (Connecticut, undated; Spann, 1985b).

Chapter 14

Vending Facility Equipment

14.1 Legal Basis for Providing Equipment to Facilities

The rules and regulations specify that the SLA is responsible for making adequate and suitable equipment available for each vending facility which is necessary for its establishment and operation (34 CFR 395.3(a)(5); RSA, 1992). Federal matching funds are available to purchase and maintain equipment. SLAs must provide rules and regulations to ensure that the right or title to or interest in the equipment used in the program's vending facilities are "vested in accordance with the laws of the State" in only the SLA, its nominee as specified by RSA regulations, or the vendor (RSA, 1992, pp. 16-17; 34 CFR 394.4(c)). The SLA's regulations vary as to whether the facility manager or nominee is allowed to own equipment (Mississippi, 1990; Missouri, 1992; Nebraska, 1983; Nevada, undated; New Jersey, 1989; Texas, 1992).

14.2 Purchase or Lease of Equipment

Many states use federal matching funds <u>only</u> to buy or lease equipment in vending facilities (when they, rather than the manager, owns the equipment). Facility managers must submit a request and get approval for replacement or addition of equipment to a facility through the proper purchasing channel, as established by state regulations. (See "Request for Bureau Purchase of Equipment" and "Request for Approval to Acquire Equipment by Operator" in Appendix B.) The SLA then investigates the necessity for the equipment and determines if the equipment can be repaired or if a similar piece of equipment is available in storage before the equipment is purchased. If the purchase is approved and funds are available, the SLA submits the proper forms to buy or lease any new or used equipment through the appropriate purchasing agency for the state. (See "Request for Authority to Purchase" in Appendix B.) Even if funds are available, the SLA may disapprove equipment requests deemed unnecessary, unsuitable, or not financially feasible. Unnecessary equipment is equipment which is not required for the ordinary operation of a facility or which duplicates existing equipment. Unsuitable equipment is equipment which is not needed for the actual or anticipated requirements at a facility. Financially unfeasible equipment is equipment which does not yield enough revenue during its life expectancy to pay for the cost of purchase, as determined by the SLA (Mississippi, 1990; Nebraska, 1983; Nevada, undated; New Jersey, 1989; Texas, 1992). An SLA may also deny purchase of equipment for which inadequate plumbing, ventilation, or electrical services exist, or which may not be allowable due to the facility's permit (D. J. Koreski, personal communication, June 3, 1994). All state or SLA laws and regulations must be followed for the purchase of equipment, including placing expensive equipment on bid and using competitive contracts (Mississippi, 1990; Nebraska, 1983; Nevada, undated; New Jersey, 1989; Texas, 1992).

The manager is required (usually as part of the operating agreement) to make no additions, deletions, or modification to equipment in the facility without first obtaining authorization. The SLA has no obligation to buy unapproved equipment purchased by the facility manager. In certain cases, the manager (after getting approval from the SLA) may buy equipment and donate it to the program, making the equipment eligible for repair and maintenance by the SLA (Mississippi, 1990; Nebraska, 1983; New Jersey, 1989; Texas, 1992). (See "Request for Approval to Acquire Equipment by Operator" in Appendix B.)

14.3 Maintenance and Replacement of Equipment

Regulations specify that the SLA is to maintain all vending facility equipment "in good repair and in an attractive condition, and shall replace (or cause to be replaced) worn-out or obsolete equipment as required" to continue successful operation of the vending facility (RSA, 1992, p. 17; 34 CFR 395.10). Most SLAs which own their equipment repair and maintain the equipment; SLAs must respond to requests for repair promptly and effectively because malfunctioning equipment might cause a loss in profits to the facility. In the event of an emergency or if other circumstances seem to dictate, the facility operator might have the equipment repaired or maintained him/herself if it appears advantageous to the operation of the facility. However, the SLA may not pay for the repair. Usually, forms which allow the operator to recover this type of expense are available; the SLA will determine if the expense was not a detriment to the SLA. As a rule, SLAs prefer that managers go through proper channels for maintenance and repair of equipment (Mississippi, 1990; Nebraska, 1983; Texas, 1992).

Other SLAs require the manager to pay a deductible for repair and maintenance of equipment beginning a specific number of days after assignment to a new facility. The SLA provides maintenance free of charge for the initial period of days (New Jersey, 1989).

The SLA usually does not pay for costs for repair from manager neglect or abuse of equipment or for an expense resulting from failure to determine a minor repair (such as unit not plugged in; RESET button not pushed; or circuit breaker tripped); managers usually are responsible for these costs. Facility managers are responsible for establishing and following an effective program of daily cleaning and preventive maintenance of equipment. Routine preventative maintenance includes oiling moving parts; tightening loose screws, bolts, or other parts; cleaning refrigeration compressor coils; making simple repairs which do not cost the manager anything; and making sure the equipment is properly plugged in and switched on (Mississippi, 1990; Nebraska, 1983; New Jersey, 1989; Texas, 1992).

14.4 Disposal of Equipment

Equipment may be disposed of through selling, transferring to another agency, salvaging parts, or discarding it. (See "Request for Authority to Dispose of Property" in Appendix B.) Before disposing of equipment, BEP staff should determine the number of previous repairs to the piece of equipment; how old the equipment is as compared to the life expectancy; what the salvage value is, if any;

what the repair cost is as compared to replacing the piece of equipment; and what the possible practical methods are for disposal (Mississippi, 1990).

When deciding to dispose of equipment, inventory of the equipment is necessary. Equipment on state inventory lists have stringent guidelines to follow. Forms must be used when removing equipment from a state inventory list for whatever reason. (See "Physical Inventory" form, "Perpetual Inventory Card," and "Request for Authority to Dispose of Property" in Appendix B.)

If money is gained from the sale of equipment and if the item is bought partially with federal money, the SLA may need to reimburse the federal government at the appropriate ratio. A certain number of bids are usually required when selling equipment. Before discarding equipment (especially vending machines), it should be checked to see if useful parts may be removed. If the equipment is transferred to another state agency, appropriate paperwork must be used and sent through the proper channels. After going through the proper channels of the state and SLA, the equipment may then be removed from a state's inventory list (Mississippi, 1990).

14.5 Facility Manager Ownership of Vending Facility Equipment

Federal regulations specify that, if an SLA wants to place the right and title to or interest in the equipment with the facility manager, the state or SLA must have rules and regulations in place which meet the following minimum provisions (RSA, 1992, pp. 17-19; 34 CFR 395.6):

(1) *Criteria establishing when title may be vested in a vendor and, if so, reasonable provisions to enable a vendor to purchase vending facility equipment and stock.*

(2) *A written agreement with each vendor which contains the terms and conditions governing ownership by vendors in accordance with these rules and regulations and conditions of the permit.*

(3) *Delineation of the responsibility for providing maintenance and replacement of equipment. When the vendor is responsible for maintenance and*

replacement of equipment or agrees to purchase additional new equipment, the rules and regulations shall provide for equitable reduction of set-aside charges for such purposes and the method for determining such reduction shall be prescribed. However, the rules and regulations shall also provide that upon the vendor's failure to meet these obligations, the State licensing agency will make the necessary maintenance or replacement and make equitable arrangements with the vendor for reimbursement.

(4) Retaining the first option to repurchase the equipment . . . in a vending facility in the event the vendor-owner dies, or for any other reason ceases to be a licensee, or transfers to another vending facility. The rules and regulations shall also provide that ownership of equipment . . . shall become the property of the State licensing agency subject to an obligation on its part to pay the vendor-owner's estate the fair market value of the equity therein. The rules and regulations shall also provide for the vendor-owner, a personal representative or next of kin entitlement to an opportunity for a full evidentiary hearing with respect to the determination of the amount to be paid by the State licensing agency for a vendor's ownership in the equipment . . . .

(5) Assurance that no individual will be denied the opportunity to become a vendor because of the individual's unwillingness or inability to purchase the vending facility equipment . . . .

States vary as to whether they allow facility managers to own equipment and how much they may be allowed to own. Some states prefer that managers do not own any equipment, so they are not obligated to buy the equipment or substitute the equipment for money owed them or creditors. Other states allow managers to buy or lease equipment not approved by or affordable to the SLA. If the equipment was not approved by the SLA because it was deemed unnecessary, unsuitable, or financially unfeasible, the manager must provide information to the contrary which will convince the SLA to give approval. Depending upon the SLA, maintenance of equipment purchased or leased may be paid by the SLA or by the facility manager.

The SLA has the first chance to buy manager-owned equipment, but may decline to purchase it (Mississippi, 1990; Nevada, undated; New Jersey, 1989).

Chapter 15

Vending Machines on Federal and Nonfederal Property

15.1 Vending Machines on Federal Property

A vending machine, as defined by 34 CFR 395.1(y) is, for the purpose of assigning vending machine income, "a coin or currency operated machine which dispenses articles or services" other than postal products and except machines providing recreational services and telephones. Vending machines became a big business after World War II, when these machines were first introduced because of the mechanical advances occurring. Federal employee groups began to replace the blind facility managers with machines through contracts with vending companies to make a profit for their employee groups. Members of Congress recognized these practices to be completely contradictory to the spirit of the Randolph-Sheppard Act and in 1954 amended the Act giving large percentages of the income from vending machines to the SLA to distribute to vendors. This discouraged the use of vending machines exclusively to generate income for a building or employee group (University of Tennessee, 1976; Weston & Spann, 1985). The Amendments in 1974 specified percentages of distribution from the federal property to the SLA (34 CFR 395.32), which is then to be distributed to the proper state facility operators (34 CFR 395.8(a)).

15.2 Placement of Vending Machines on Federal Property

Before a facility operator can place vending machines on federal property, she/he must obtain approval from the SLA, who then submits Form PBS P 5815.2A to apply for a permit from the property official, if one already has not been submitted for a vending facility. (See Appendix B for a sample application.)

15.3 Collection and Distribution of Vending Machine Income from Federal Agencies to SLAs

The on-site manager responsible for the federal property which has vending machines is accountable for the collection of and accounting for vending machine income and must ensure compliance with the Randolph-Sheppard Act (34 CFR 395.32 (a)). The property manager is not involved in the actual physical collection of vending machine income. The SLA performs this function. The Randolph-Sheppard program manager determines whether a vending machine is in direct competition with a vending facility, subject to the agreement of the SLA (GSA, 1994, pp. 4-7).

The law makes a distinction between direct and indirect competition and locations where there are no vending machines. Direct competition means that vending machines sell what the facility operator sells. Indirect competition means either the facility operator does not sell the same items as the machines, or the machines are in parts of the building where employees cannot easily reach the vending facility (Weston & Spann, 1985). The following regulations apply to income derived from vending machines on federal property:

(1) If the vending machines are in direct competition with a BEP facility operator, 100% of the income accrues to the SLA. The SLA disburses an amount not to exceed the average net income of the total number of facility managers in the state and of the total of facility managers in the United States (based on previous fiscal year averages) to the facility manager who is in direct competition with the vending machines. Any amount over the average may be kept by the SLA to be used as specified by law (34 CFR 395.32(b); 34 CFR 395.8(b)).

(2) If vending machines indirectly compete with facility managers, 50% of vending machine income accrues to the SLA. The SLA uses the same formula as described above in distributing income to the facility manager who is in indirect competition with the vending machines. Any amount over the average may be kept by the SLA to be used as specified by law. If no facility manager is located on the federal property, the total amount accrues to the SLA, unless at least 50% of total

working hours occurs during a period other than normal working hours (34 CFR 395.32(c); 34 CFR 395.8(a)).

(3) If vending machines are on federal property where at least 50% of total hours worked are during a period other than normal working hours and are not in direct competition with a facility operator, then 30% of the vending machine income accrues to the SLA. The SLA uses the same formula as above to distribute income to the facility manager. Any amount over the average may be kept by the SLA to be used as specified by law. If no facility manager is located on the federal property in question, the total amount accrues to the SLA (34 CFR 395.32(d); 34 CFR 395.8(a)).

The property management must collect and disburse the SLA's share of the vending machine income quarterly. Exceptions to the law are post exchanges, ships' stores, veteran's canteens, and indirect competition of vending machines whose income does not exceed $3,000 annually (34 CFR 395.32(i)).

The law does not limit arrangements which give a greater percentage of income to SLAs or give a percentage at locations earning less than $3,000 annually (34 CFR 395.32(i) and (j)). There are also no limits on earnings when vending machines are combined to create a facility maintained, serviced, and operated by a licensed manager.

15.4 Distribution and Use of Income From Vending Machines on Federal Property

After receiving vending machine income from federal property, the SLA must distribute the appropriate amount quarterly to facility managers who operate vending facilities in direct or indirect competition with vending machines on federal property as described in Section 15.2 above. As specified in the regulations, the facility managers' amount is not to exceed the average net income of the total number of facility operators in the state nor the average net income of facility operators in the United States. This amount is based on the previous fiscal year's averages. Vending machine income in excess of the amount eligible to the facility managers (unassigned income) is retained by the SLA.

The SLA may use the unassigned vending machine income to establish and maintain retirement or pension plans, for health insurance contributions, and for sick leave and vacation time for state facility managers, if a majority of licensed facility managers so determine after the SLA has provided appropriate information to the managers. Any amount of money not used for the aforementioned reason can be used by the SLA to maintain and replace equipment, to purchase equipment, to provide management services, and to assure a fair minimum return to vendors. Any amount assessed the facility managers is to be reduced pro rata in an amount equal to the total of the remaining vending machine income (34 CFR 395.8; RSA, 1992).

15.5 Vending Machines on Nonfederal Property

Some SLAs have arrangements with vending machine companies and a manager on-site (Missouri, 1991). A certain percentage of the net income reverts to the SLA or the nominee agency as an administrative fee. Similar to federal regulations, managers may be limited to a certain amount of income based on a formula (150% of average of all state facility managers). Unassigned income from nonfederal property is used to develop and enhance BEP facilities as designated by state laws and regulations.

15.6 Vending Machine Management of Property with Unassigned Income

SLAs who are managing vending machines on property with unassigned income may have specific requirements in the contracts with vending machine companies to assure good quality of service to building occupants. The machines must be in good working order, clean, and well stocked with products in marketable condition, including such considerations as sanitary condition, freshness, and appearance of these products and their containers and wrappings. Products may be required to be in the top 10 nationally advertised beverages; the candy, snacks, hot and cold food, and any other items to be vended may be required to be among those products listed in the top 20 nationally advertised items.

The SLA may review quarterly sales reports to ascertain if the vending machines are managed appropriately. Site visits may be performed, including interviews with building occupants to assure customer satisfaction. Any identified management problems may result in termination of contracts as allowed in those agreements (Alaska, 1991).

Chapter 16

Management Services

16.1 Definition of Management Services

Management services as defined by 34 CFR 395.1(j) are "supervision, inspection, quality control, consultation, accounting, regulating, in-service training, and other related services "provided by the SLA" on a systematic basis to support and improve vending facilities operated by blind vendors." This does not include services or costs related to the ongoing operation of a facility after its initial establishment. The services discussed in this chapter are accounting, supervision, inspection, and quality control. These topics fall under the general areas of (1) accounting practices and proper reporting forms and (2) monitoring the BEP facility and evaluating the operator according to set standards to ensure a quality facility. The SLA or its nominee agency is responsible for management services. Effective management services depend on the establishment and continuance of good working relationships between the BEP staff, nominee agency personnel (if used), licensed managers, state or federal agency property managers, and anyone else concerned with the program (Texas, 1992).

16.2 Use of a Nominee

An SLA may enter into a written agreement with a nominee agency (a nonprofit corporation) to furnish services to facility managers; the agreement must be stated in writing and must provide (1) that the SLA still has full responsibility for the BEP; (2) what type and extent of services are to be provided; (3) what set-aside charges are to be collected, if any; (4) that the nominee can use funds only as specified by the SLA; (5) that the SLA has control related to licensing, promotion, transfer, and termination of facility managers and control of "preservation, utilization, and disposition of Program assets;" and (6) if specified in state law, whether the "right, title to, or interest in vending facility equipment or stock" is vested in the nominee and ensuring that the SLA has "paramount right" to "direct and control the use, transfer, and disposition of such vending facilities or stock" (34 CFR 395.15).

To use the services of a nominee, the SLA must indicate by application to the USDE that it plans to use the nominee and what services will be provided by the nominee. The procedures for the supervision and control of the services provided by and the methods used in evaluating services received from the nominee, the basis for remuneration of the nominee, and the fiscal controls and accounting procedures of the nominee must be specified by the SLA (34 CFR 395.3(a)(10)). The nominee works with the State Committee of Blind Vendors to determine what types of insurance facility managers should have and provides most financial and business services for the SLAs' facility managers (Missouri, 1991).

Some SLAs choose to use a nominee agency to give them more flexibility and effectiveness and to simplify certain procedures, such as purchasing and temporary relief workers because of strict state rules and regulations which prohibit swiftly adding temporary personnel or replacing equipment in an emergency. The nominee is responsible for the day-to-day operations of the program (Missouri, 1991; Weston & Spann, 1985). The SLA maintains all responsibility and control for the administration and operation of the BEP (34 CFR 395.15(a)(1)).

16.3 Legal Basis of Accounting Practices and Reports by SLA

Two assurances (of nine specified in 34 CFR 395.3(a)(11)) which the SLA must give relate to accounting procedures and financial records. The SLA is required to (1) "[a]dopt accounting procedures and maintain financial records in a manner necessary to provide for each vending facility and for the State's vending facility program a classification of financial transactions in such detail as is sufficient to enable evaluation of performance;" and (2) "[m]aintain records and make reports in such form and containing such information as the Secretary may require, make such records available for audit purposes, and comply with such provisions as the Secretary may find necessary to assure the correctness and verification of such reports." Because matching funds are received through the RSA, the RSA Commissioner has been delegated this responsibility of the Secretary (RSA, 1992, 3015.04(9)).

16.4 Financial Practices and Reports

SLAs vary in the accounting procedures used and the reports required of the vendor, usually because states already have a system of accounting in place for all state agencies. The main goals of a system of accounting are to ensure a profit to the business, to maintain cash flow sufficient to meet expenses, to provide information about what is happening in a business at all times, to meet record-keeping requirements of the Internal Revenue Service (IRS), Social Security Administration (SSA), and state sales tax, employment security, and workers' compensation agencies, to evaluate and improve the performance of a business, and to prepare for the future. A good accounting system provides all records needed to evaluate performance and to prepare financial statements and reports and tax reports; protects the business from carelessness, theft, error, and fraud; and provides a basis for business planning. The vending facility must be operated to maintain a minimum annual net profit to provide income for the manager and prevent loss to the SLA. If the vending facility is not showing a reasonable profit, the SLA will work with the vending facility manager to do the following: (1) review all business and financial management practices; (2) review location and layout of the facility; (3) review the customer needs and availability of services; (4) review public relations including relationships with the building's management and customers; (5) review facility employees; (6) incorporate changes deemed necessary to make the business profitable and approved by the SLA; and (7) assist the SLA in closing the vending facility if the profits are not maintained at the level required (Alaska, 1991; Minton, 1985a; New Jersey, 1989).

Information gathered through records should be systematic, formalized, useful and useable, and accessible (Minton, 1985a). Systematic information is gathered on a regular basis to determine cycles of operation and peaks and valleys within the cycles. Formalized records help document facts, prices, profits, expenses, and strategies which did or did not work. Depending on the SLA, many of these records may be necessary for preparing required forms to be submitted weekly, monthly, quarterly, and/or annually. Useful information contributes to overall goals of financial management, while usable information can be applied to a given situation. Accessible information means that a manager or employee can easily find the information needed whether in a computer or a manual filing system. (See Appendix B for examples of relevant weekly, monthly, quarterly, and annual financial forms.)

Four types of information must be kept by a business: accounting, sales, production, and personnel records (Minton, 1985a). Accounting records include information about the transactions of the business, including receipts (income including date, source, and amount); purchases (expenses by date, type, to whom paid, and reason); equipment used or owned (by date purchased, cost, annual depreciation, repairs, and maintenance); and taxes (federal, state, and local taxes collected and owed). In the case of BEP facilities, information about equipment (except for inventory records) is not maintained by the manager unless he/she owns the equipment. Also accounts payable and receivable, which are usually a part of most businesses, may not be relevant to BEP facilities because most operate on a cash-only basis. If the facility is audited by the SLA or IRS, expenses not verified and substantiated by these records will be disallowed, resulting in the possibility of more taxes with penalties and the payment of more set-aside fees with penalties (Nevada, undated). If the expenses disallowed are excessive and/or frequent, the facility operator may be penalized in other ways, such as probation or possible revocation of license.

Sales records (usually the beginning of most business records) are developed to obtain information needed by a business such as what is sold, when it is sold, how much is sold, and for what price it is sold. This information can help a manager determine what is most popular, which then determines inventory to be ordered for popular items and what is to be promoted or marked down for disposal.

Also, sales records show how many customers a business has, how much a customer spends, and what is returned (which can show dissatisfaction with an item). From sales records, projections can be made about inventory, merchandising, personnel scheduling, hours of operation, and availability of items at a specific time (Minton, 1985a).

Production records are usually used in cafeterias or snack bars which prepare a large amount of their food. Information to be included is the material used, labor costs directly involved in food preparation, and inventory records. Production records are necessary to determine the price of the items for sale and determining the net profit of the business (Minton, 1985a).

If the facility has employees, a complete list of personnel should be compiled and maintained to show name and address, social security and tax information, date and amount of payment, and payroll deductions. Other records should be kept of accidents, training provided, performance evaluations, commendations, disciplinary action, and absences or sick leave and vacation days, if provided. Confidentiality of these records are of the utmost importance (Minton, 1985a).

The issue of providing employment for individuals who are blind occasionally creates a public perception problem when the vending facility manager hires her/his spouse or other relatives to assist in managing a location. Some SLAs have developed requirements regarding the participation of spouses in the vending facility business. Vending facility managers usually are allowed to consider the labor of spouse or family and account for such labor at a specified amount or percentage above the normal wage for the type of labor performed. The vending facility operator must keep a time card for recording the hours devoted to the operation of the facility by the family member. It is unacceptable for a spouse or other family member to manage the facility--the program requires that this be done by the licensed vending facility operator. The amount of time worked by the family member or spouse may be considered an operating expense and subtracted before calculating the net proceeds (and calculating the set-aside) (Alaska, 1991). (See "Request to Hire a Family Member" in Appendix B.)

A documentation file of records should also be kept. This contains supporting paperwork for the four major categories of records and includes cash register tapes, invoices, canceled checks, receipts, and sales slips. This set of files would also contain operating agreements or contracts, applicable licenses required by the state or local governments (such as operating, excise, tobacco, and health licenses), equipment warranties, information from SLAs about facility manager requirements, tax forms, and information on laws which govern the operation of the facility (Minton, 1985a).

Necessary financial statements for any business include quarterly and/or annual profit and loss statements and budgets (Minton, 1985a). Because many SLAs or their nominees do the accounting for BEP facilities as a management service, they require specific weekly, monthly, quarterly, and/or annual forms or operating reports to be submitted, with invoices for purchases and expenses, cash register tapes, and other reports attached, depending upon the state. These types of forms include income, cost of goods sold, operating expense, set-aside expense, operator withdrawals, payroll, sales tax, depreciation expense schedules, and inventory control forms. Some SLAs or their nominees collect state sales taxes from the facilities to pay directly to the state, while others expect the facility managers to submit sales tax payments and provide it with copies of the sales tax payment and the accompanying form. In cases where the SLA or nominee does the accounting, the facility manager is usually provided a monthly and quarterly income and expense report and a monthly summary of business income and expenses along with the amount owed the SLA for set-aside fees. Those who do not provide accounting services still require many of the same forms, in addition to monthly and weekly balance sheets and/or quarterly, monthly, and/or annual income and expense statements. Some require a specific type of accounting system (accrual, modified accrual, cash) and specific files for auditing purposes, usually dependent upon the type of system used by the SLA (Connecticut, undated; Hawaii, undated; Mississippi, 1990; Missouri, 1991; Nevada, undated; New Jersey, 1989; Texas, 1992). (Sample forms are included in Appendix B.)

Some SLAs or their nominees require that specified accounting forms and schedules are due at a specific time for a specific week, month, quarter, or year, usually determined by the date of postmark on the envelope in which the form(s) is(are) received. Some allow grace periods for certain circumstances such as loss in the mail or serious illness. Financial statements with entries in violation of rules and regulation are returned with reasons for disallowance of the entries and must be resubmitted. Resubmitted reports are considered delinquent if submitted after the due date. Facility managers should ask SLA personnel if they have any questions about forms submitted and about relevant rules. Delinquent forms and payments are subject to penalties of $10 to $20 or a percentage of the amount due. Insufficient funds checks usually require a fee in addition to the amount owed, and if more than two checks fail to clear within a specified period, facility managers may be required to pay by certified check or money order (Alaska, 1991; Missouri, 1991; Nevada, undated; Oregon, 1987).

16.5 Facility Monitoring and Manager Evaluation

Management services as defined by 34 CFR 395.1(j) include "supervision, inspection, quality control, . . . [and] regulating . . ." by the SLA or its nominee ". . . on a systematic basis to support and improve vending facilities operated by blind vendors." Monitoring of the BEP facility and evaluation of the operator is necessary to set standards to ensure quality control of a facility under its regulation and to ensure that BEP facilities are making a profit and operating within federal and state guidelines (Minton, 1985c).

Monitoring a facility is an ongoing process to check how well things are going in a facility, while manager evaluation is a periodic check of how well the manager and the facility are doing. Many SLA representatives or counselors informally monitor the facility, while other SLAs have forms which representatives are required or urged to use each time they visit a facility. Some SLAs record all visits in a month by the representative to the facility on one form; every facility may not have to be visited every month. Evaluations of the operator and the facility are usually done annually, though new operators may be evaluated monthly or quarterly for a year or more, or other operators more frequently if evaluations are not up to standards.

Areas to be evaluated and monitored are design of the facility; merchandising; financial management; purchasing, storage and inventory; personal appearance and hygiene; food service (if part of facility); health, sanitation, and safety; public relations with property manager, suppliers, customers, and SLA representatives; and operations (Alaska, 1991; Minton, 1985c; New Jersey, 1989). (See Appendix B for a sample "BEP Operation Evaluation" form.) The SLA should clearly articulate its expectations to the operator, particularly on issues related to sanitation, preventative maintenance of equipment, insect/rodent control, energy/water management, recycling issues, etc.

Periodic evaluations, sometimes called contact reports or site visit reports, are performed by SLA representatives or counselors. The representative is responsible for written documentation of all important elements. Before visiting a facility for evaluation, the representative should be familiar with the total situation and pertinent facts and information related to the facility. Visits should not interrupt the operation of the facility, especially at busy times, and sufficient time should be allowed to investigate all factors and discuss the evaluation (Mississippi, 1990; New Jersey, 1989).

When rating various aspects of the facility, numerical ratings or letter grades are given to the facility and operator in the various areas. Specific open-ended comments to correct problems or commend current actions are included at the end of each section or the end of the evaluation. Sometimes narrative reports may be necessary after the evaluation to augment evaluations (Mississippi, 1990; New Jersey, 1989).

For ratings below the standards set by the SLA, corrective action must be taken by the facility manager. Written comments on the evaluation and oral comments in discussing problems should be constructive criticisms which will help the manager improve the facility operation and should be worded in terms of improvement which will lead to the accomplishment of the manager's goals (such as increased earnings) or BEP goals (continued success of the program and the facility). The representative should provide detailed remarks about the nature of the problem and corrective action which should be taken. All corrective action to be taken should be thoroughly discussed with the facility manager, incorporating his/her ideas if possible, and a reasonable amount of time should be given for the manager to correct any problems. Some problems require more time than others because other individuals may be needed to correct the problem (such as an exterminator or electrician); others require immediate action (such as moving items blocking fire exits or dusting dirty racks). Many states use a Plan of Action form to specify improvements to be made by the operator. (Minton, 1985b; Mississippi, 1990; New Jersey, 1989). (See Appendix B.)

The SLA representative determines if the unfavorable rating is a serious enough violation of the SLA's rules and regulations to recommend disciplinary probation, suspension, a written warning, or whatever the first step may be in removing the manager if the facility does not improve in the specified area. The representative must follow up problems within a time specified in writing to the facility manager to determine if corrective action was made. When the correction is made, the manager's evaluation is updated and the manager is notified in writing of the SLA's acceptance of the correction. If the manager does not take corrective action within the specified time frame, the SLA representative determines if there is a reason for inaction. If there is a reason, the representative sets up a new time frame with new dates by which the correction should be made. If there is no reason for inaction, the BEP representative reports the inaction to her/his supervisor who will decide the disciplinary action to be taken. The operator may ask for an informal review or reconsideration of any of the decisions by the SLA or its nominee before any formal action is taken by the SLA or the facility manager (Mississippi, 1990; New Jersey, 1989).

Chapter 17

Model Procedures for Administrative Reviews, Full Evidentiary Hearings and Requests for Arbitration of Vendor and SLA Complaints

17.1 Process before Evidentiary Hearings and Arbitration

The Randolph-Sheppard Act and accompanying regulations (34 CFR 395.13) provide for evidentiary hearings and arbitration of facility managers' complaints arising from dissatisfaction with an SLA's action stemming from "the operation or administration of the vending facility program." Prior to an evidentiary hearing, SLAs should make every effort to resolve verbal complaints at the administrative level because the resolution of disputes as soon as possible is advantageous to all parties. Complaints may arise regarding, among other things, suspension, revocation of license, probationary period, or lack of promotion. After receipt of a vendor complaint, some SLAs begin with an informal notification by telephone or in person, upon which the aggrieved facility manager is usually encouraged or required to work with his/her representative from or the entire State Committee of Blind Vendors (Mississippi, 1990; Missouri, 1991; Nebraska, 1983; Nevada, 1992; New Jersey 1989; Texas, 1992).

The State Committee of Blind Vendors receives and transmits complaints from blind vendors, and at their request, serves as advocate for the vendor in preparing his/her complaint. A facility manager or the manager's designee (usually a member of the State Committee) requests in writing a review (or fills out a required form) within a specified number of working days (usually 5 to 15) of the occurrence of the action. The request for review or notification of a grievance should include the following: (1) the date of the incident (or when aware of a policy or situation); (2) the location of the incident, if applicable; (3) the authorized SLA representative involved; (4) the nature of the complaint; (5) witnesses to the incident; (6) citation of the statute or regulation involved; and (7) proposed corrective action to rectify the situation. Usually, these procedures do not require an attorney, but the facility manager is allowed to have one at her/his expense if she/he desires (Mississippi, 1990; Missouri, 1991; Nebraska, 1983; Nevada, 1992; New Jersey, 1989; Texas, 1992). (See Appendix B for "Request for Review of Grievance" and "Grievance Procedure Routing Sheet.")

If there is only one review before the full evidentiary hearing, the review should be made by a member or members of the SLA administrative staff not involved in the original action. Some SLAs begin with review by the SLA representative for the area in which the manager's facility is located and progress through the agency hierarchy until the review reaches the SLA department head. As the complaint moves upward through the levels, the procedures become more formal and lengthy. Reviews of the complaint are to be completed within a specified number of working days (5 to 30, depending on the number of persons reviewing the complaint). Procedures by those reviewing the grievance include transmission of the decision in writing to the vendor and retention of the decision by the SLA as part of the attached recommendation of the case. If, after SLA procedures to satisfy the complaint are completed, the facility manager is still dissatisfied, she/he may request an evidentiary hearing (Mississippi, 1990; Missouri, 1991; Nebraska, 1983; Nevada, 1992; New Jersey, 1989; Texas, 1992).

17.2 Legal Basis for Evidentiary Hearings and Arbitration between SLA and Vendor

The Randolph-Sheppard Act at 20 U.S.C. §107d-1 and §107d-2 and regulations at 34 CFR 395.13 provide for evidentiary hearings and arbitration of a facility manager's complaint arising from dissatisfaction with an SLA's action in "the operation or administration of the vending facility program." If the operator is dissatisfied with any action taken or decision rendered as a result of the evidentiary hearing, she/he may file a complaint with the Secretary of Education, accompanied by supporting documents and the decision of the hearing, at the state level.

17.3 Evidentiary Hearing Process

When a facility manager is dissatisfied with an SLA action arising from operation or administration of the BEP, she/he may file a complaint or grievance with the SLA and request a full evidentiary hearing. By practice, evidentiary hearings have generally been held to decide issues of fact, such as whether SLAs follow their own rules or if they apply rules consistently, where resolution can be made by evidence such as documents or testimony of witnesses (Mississippi, 1990; Missouri, 1991; Nebraska, 1983; Texas, 1992).

Facility managers are to be informed of their rights to a full evidentiary hearing in writing when they are licensed; specific procedures are to be outlined per regulations at 34 CFR 395.13. Most states give managers 15 days from the most recent decision of an administrative review or grievance procedure or the date of the action for which the manager is dissatisfied to request a full evidentiary hearing in writing. The manager is required to make the written request in person to the administrator of the SLA; it may be sent by certified mail, return receipt requested. The vendor may also transfer the request through the State Committee of Blind Vendors. The manager is entitled to legal counsel or other representation at his/her expense in an evidentiary hearing (Mississippi, 1990; Missouri, 1991; Nebraska, 1983; New Jersey, 1989; Texas, 1992).

Reader services or other communication services will be arranged for the facility manager, if requested. If the hearing is held in a city other than the manager's place of residence, transportation costs may be provided by the SLA. A hearing is to be held at a time and place convenient and accessible to the facility manager requesting the hearing and at regular working hours at the central office or a regional office of the SLA. The hearing is to be scheduled by the SLA within 15 working days of the receipt of the request, unless the SLA and facility manager agree to another time in writing. The manager is notified in writing by the SLA of the time and place of the hearing and her/his right to be represented by legal or other counsel and is given a copy of the hearing procedures and other relevant information to help prepare the case for the hearing (Mississippi, 1990; Missouri, 1991; Nebraska, 1983; Nevada, undated; New Jersey, 1989; Texas, 1992).

The presiding officer at the hearing should be an impartial and qualified official with no involvement with the SLA action at issue in the hearing and no involvement with the BEP's administration or operation of the vending facility program. The presiding officer may be a staff member or official of another state agency or a state agency hearing officer. The presiding officer is selected by the SLA director or the supervisor of agency hearing officers. The presiding officer conducts a full evidentiary hearing, avoiding delay, maintaining order, and sufficiently recording the proceedings for a full and true disclosure of the facts and issues. To competently conduct the hearing, the presiding officer has power authorized by law to make all procedural and evidentiary ruling necessary for the conduct of the hearing (Mississippi, 1990; Missouri, 1991; Nebraska, 1983; Nevada, undated; New Jersey, 1989; Texas, 1992).

To elicit a full and true disclosure of the facts related to the issue or issues, both the facility manager and the SLA would be permitted to present their cases by oral or documented evidence, to introduce rebuttal evidence, and to conduct examination and cross-examination of witnesses. All papers and documents introduced into evidence at the hearing are to be filed with the presiding officer and are available to the other party. All evidence is open to examination by both parties, and both will have the opportunity to refute facts or arguments on the other side of the issue(s) (Mississippi, 1990; Nebraska, 1983; Nevada, undated; New Jersey, 1989; Texas, 1992).

A transcript of the hearing will be available to both parties. The SLA will pay all transcript costs and provide a copy to the facility manager in accessible format. The transcript of the testimony, exhibits, and all papers and documents filed in the hearing constitute the exclusive record for the decision made by the presiding officer. The officer's decision will determine the principal issues and relevant facts advanced at the hearing and applicable provisions in the law, regulations, and SLA policy; contain findings of fact and conclusions or law with respect to each of the allegations raised by the facility manager and the reasons and basis for them; specify what law, regulation, or policy was violated by either party, if any; and specify any remedial action necessary to resolve the issues in the dispute. The decision is usually made within 15 to 20 working or calendar days (depending on the state) of the receipt of the official transcript (Mississippi, 1990; Missouri, 1991; Nebraska, 1983; Nevada, undated; New Jersey, 1989; Texas, 1992).

In states where the hearing officer has the authority to make the final decision, the decision is mailed promptly to the facility manager and the SLA. In some states, the decision may be reviewed and changed by the SLA director. The SLA director notifies the facility manager of the decision to review. If the decision is not reviewed, the decision of the hearing officer stands; if the decision is reviewed, the SLA director may decide to change the decision. The SLA director notifies the facility manager of the final decision within 20 to 30 working days. If the facility manager is dissatisfied with the decision, she/he may request that the USDE Secretary convene an arbitration panel (Mississippi, 1990; Missouri, 1991; Nevada, undated; New Jersey, 1989; Texas, 1992).

17.4 Arbitration of Complaints after the Evidentiary Hearing

The Randolph-Sheppard Act at 20 U.S.C. §107d-1(a) allows the facility manager to file a request for arbitration to the USDE Secretary if he/she is dissatisfied with the outcome of the evidentiary hearing. By filing a complaint with the Secretary, the operator consents to the release of information necessary for conduct of an ad hoc arbitration panel. The complaint must be filed in writing and must contain (1) a statement of the grievance; (2) the date and place of the full evidentiary hearing; (3) a copy of the decision and what actions have been taken because of the decision; (4) the part of the decision which is causing the dissatisfaction and reason for dissatisfaction; and (5) a statement as to what is required to remedy the situation (34 CFR 395.13).

The Secretary will convene an arbitration panel after receipt of a complaint which meets the above requirements. An arbitration panel convened by the Secretary will consist of an individual designated by the SLA, an individual designated by the blind vendor, and an individual not employed by an SLA or its parent agency, and who is designated by the other two members of the panel. That individual will be the chairperson of the panel. If the SLA or vendor does not select a member for the panel, the USDE Secretary will designate such a member on its or his/her behalf (34 CFR 395.13).

The decision of the arbitration panel is final and binding on all parties, but subject to judicial review under 20 U.S.C. §107d-2. The Secretary pays "the reasonable costs of arbitration." An abstract of the decision is published in the Federal Register.

17.5 Arbitration of SLA Complaints against Federal Agencies

The SLA is to resolve any day-to-day problems related to the operation of a facility informally, with the participation of the facility manager and the on-site property manager for the agency (34 CFR 395.36). Unresolved problems related to "the permit/contract, the Act, or the regulations . . ." should be reported in writing by the federal property manager to the SLA."

The SLA can file a complaint with the USDE Secretary if it determines that an agency controlling federal property is not complying with the provisions of the Randolph-Sheppard Act or USDE regulations (34 CFR 395.37). After the complaint is received, the Secretary will convene an arbitration panel, consisting of an individual designated by the SLA, an individual designated by the agency controlling the federal property over which the dispute arose, and an individual not employed by the agency who is designated by the other members of the panel and who will chair the panel. If the SLA or federal agency does not select a member for the panel, the USDE Secretary will designate a member on its behalf. If the panel finds the federal agency is in violation of the Act or regulations, that federal agency is expected to correct the violation according to 20 U.S.C. §107d-2. The Secretary of

Education pays the "reasonable costs" of this type of arbitration as well. An abstract of the panel decision is published in the *Federal Register*.

17.6 Common Causes of Arbitration

The evidentiary hearing and arbitration process are very time-consuming and expensive for states, facility managers, and the federal government. Clarity in the development of rules, regulations, policies, and procedures by the SLA can assist considerably in preventing unnecessary conflict between vendors and the SLA. Open communication and acceptance of input on the development of policies guiding the program may also help in defusing issues and concerns of vendors. SLAs should create opportunities to achieve consensus on the philosophy and purpose of the Randolph-Sheppard Act in relation to the development and expansion of the state programs.

Often, arbitrations between the SLA and facility managers have related to issues of transfer and promotion; actions of the SLA affecting the business of a location, such as closing a location, developing a new location, or advocating for vendors with federal entities, etc.; and not following the SLA's own rules, regulations, and procedures. Some common areas of arbitration between the SLA and federal entities include distribution of federal vending machine income; failure to offer vending facility sites to the SLA; and alleged arbitrary decisions by federal agencies affecting a permit or cafeteria.

A review of these arbitration decisions by SLAs may help them evaluate the comprehensiveness of their rules, regulation, policies, and procedures. The SLAs' identifying common issues raised in the Randolph-Sheppard arbitrations and assuring that they are addressed in SLA policies and procedures may avert future vendor/SLA grievances and arbitrations (D. J. Koreski, personal communication, June 3, 1994). A summary of cross-referenced arbitration decisions by topic is located in Appendix A.

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APPENDIX A

Arbitration Panel Decisions

RANDOLPH-SHEPPARD ARBITRATION PANEL DECISIONS

All of the following arbitration panel decisions are divided into two types of arbitrations - vendor complaints about SLA operations and SLA complaints against federal agencies/property managers. These two areas are cross-referenced by topic. This classification scheme identifies both primary and secondary issues involved in arbitration panel decisions. Arbitration summaries are published in the *Federal Register* as designated by law.

Vendor Complaints Against State Licensing Agencies (SLAs)

Alleged Liability of the SLA

Joseph F. Muir, Vendor v. the District of Columbia Department of Human Services, SLA. (October 31, 1983). 48(211), p. 50149.

Alleged Negligence by the SLA

Joseph F. Muir, Vendor v. the District of Columbia Department of Human Services, SLA. (October 31, 1983). 48(211), p. 50149.

Billy Godsey, Vendor v. State of Tennessee, Tennessee Department of Human Services (SLA). (November 14, 1990). 55(220), pp. 47696-47697.

Alleged SLA Violation of Its Own Rules and Regulations

Robert Albanese, Vendor v. Delaware Department of Health and Social Services, SLA. (June 28, 1988). 53(124), p. 24411.

Betty Moffitt, Vendor v. Tennessee Department of Human Services, SLA. (June 28, 1988). 53(124), p. 24414.

Don Hudson and Richard Jack, Vendors v. State of Colorado Department of Social Services, SLA. (June 7, 1989). 54(108), pp. 24534-24535.

Lessie Hall, Vendor v. the State of Tennessee, Tennessee Department of Human Services, SLA. (July 11, 1990). 55 (133), pp. 28434-28435.

Dennis Franklin, Vendor v. Kentucky Department for the Blind. (July 26, 1994). 59(142), pp. 37974-37975.

Assignment, Selection, Transfer, or Promotion of Vendors

Robert Albanese, Vendor v. State of Delaware, Division for the Visually Impaired, Department of Health and Social Services, SLA. (August 30, 1983). 48(169), pp. 39281-39282.

James A. Smith, Vendor v. State of Rhode Island, Services for the Blind and Visually Handicapped, SLA. (October 6, 1983). 48(195), p. 45592.

Betty Moffitt, Vendor v. Tennessee Department of Human Services, SLA. (December 16, 1983). 48(243), pp. 55901-55902.

Jean E. (Petrali) Rudolph, Vendor v. California Department of Rehabilitation, Business Enterprise Program, SLA. (May 13, 1986). 51(92), pp. 17511-17512.

Abraham Brotman, Lillian Wyer, and Richard Kreamer, Vendors v. State of Pennsylvania, Pennsylvania Department of Public Welfare, SLA. (February 25, 1988). 53(38), p. 5829.

Lessie Hall, Vendor v. the State of Tennessee, Tennessee Department of Human Services, SLA. (July 11, 1990). 55 (133), pp. 28434-28435.

James Mayfield, Vendor v. Tennessee Department of Human Service, SLA. (August 5, 1993). 58(149), pp. 41740-41741.

Geraldine Jackson, Vendor v. Massachusetts (Massachusetts Commission for the Blind), SLA. (August 5, 1993). 58(149), p. 41742.

Hershel Bradford, Vendor v. Department of Rehabilitation Services, State of Illinois Vending Stand Program for the Blind, SLA. (August 5, 1993). 58(149), p. 41743.

George McNabb, Vendor v. Arkansas Department of Human Services for the Blind, SLA. (June 24, 1994). 59(121), pp. 32687-32688.

Dennis Franklin, Vendor v. Kentucky Department for the Blind. (July 26, 1994). 59(142), pp. 37974-37975.

Cafeterias

Jessie Nash, Vendor v. Georgia Department of Human Resources, Division of Vocational Rehabilitation, SLA. (April 13, 1982). 47(71), p. 15825.

Jean E. (Petrali) Rudolph, Vendor v. California Department of Rehabilitation, Business Enterprise Program, SLA. (May 13, 1986). 51(92), pp. 17511-17512.

Committee of Blind Vendors' Active Participation

James A. Smith, Vendor v. State of Rhode Island, Services for the Blind and Visually Handicapped, SLA. (October 6, 1983). 48(195), p. 45592.

Don Hudson and Richard Jack, Vendors v. State of Colorado Department of Social Services, SLA. (June 7, 1989). 54(108), pp. 24534-24535.

Abraham Brotman, Lillian Wyer, and Richard Kreamer, Vendors v. State of Pennsylvania, Pennsylvania Department of Public Welfare, SLA. (February 25, 1988). 53(38), p. 5829.

David Terry, Vendor v. State of Tennessee, Department of Human Resources, SLA. (July 22, 1994). 59(140), pp. 37469-37470.

Compensatory Awards and/or Legal Fees

Jessie Nash, Vendor v. Georgia Department of Human Resources, Division of Vocational Rehabilitation, SLA. (April 13, 1982). 47(71), p. 15825.

Patrick J. Bedard, Vendor v. the Iowa State Commission for the Blind, SLA. (May 4, 1983). 48(87), p. 20117.

Robert Albanese, Vendor v. State of Delaware, Division for the Visually Impaired, Department of Health and Social Services, SLA. (August 30, 1983), pp. 39281-39282.

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APPENDIX B

Forms

VENDING FACILITY INITIAL SITE SURVEY

Reported by: ____ Date: ____________________

1. Building: ____

   Address: ____

   City: ____

2. Type of location: Commercial ________ Institutional ________ Government ________

   Other: ____

3. Operated by: Federal ______ State ______ County ______ Municipal _____ Private _______

   Describe: ____

4. Name, Title, Address, Phone No. of Person in Charge: ________________________________

   ____

5. Name, Title, Address, Phone No. of Contact Person: ________________________________

   ____

6. How Did the SLA Become Aware of the Location? ________________________________

   ____

DEMOGRAPHICS

1. Building Population

   Men _________ Women _________ Total ____________________

   Clerical _________ Administrative _________ Total ____________________

   Maintenance _________ Other _________ Total ____________________

   Visitors: (Average Daily # _________ Total ____________________

   Total number of people who have access to the facility on a daily basis? ____________________

   Salary Range of Employees ______________________ To ______________________

   Work Weeks: 5 Days ________ 6 ________ 7 ________ Flex Time ____________________

2. Normal Work Hours __________ A.M. To __________ P.M.

Shift Works __________ A.M. To __________ P.M.

Lunch Begins __________ A.M. To __________ P.M.

A.M. Breaks ____________ P.M. Breaks _________

3. Describe type of work done by majority of building population: ______________________________

____

____

____

____

PROPOSED FACILITY

1. Type of Facility Planned/Discussed: ______________________________________

____

____

____

2. Are there vending facility machines in the building? What and where? ______________________

____

____

____

____

3. What is suggested merchandise for this location? ______________________________

____

____

____

____

____

4. How many employees will the facility require to provide service, not including the operator? Why?

Number of Employees ____________ Reason ____

____

____

____

5. Anticipated Daily Sales: $ ____________________

6. Anticipated Weekly NET Income: $ ________________

7. Where do people now purchase items intended for sale at this facility? ______________________

____

____

____

8. What would it take to get this location started? _______________________________

____

____

____

____

9. What is the level of interest commitment by building management toward the facility?

Enthusiastic ______ Positive _____ Neutral ______ Negative _______

10. What positive factors do you see in this location? _____________________________

____

____

____

11. What drawbacks do you see for this location? ________________________________

____

____

____

12. Interior location: Rough layout showing entrances, elevators, restrooms, and water lines, etc.

13. Physical location: Rough layout showing and labeling nearby buildings and competing establishments.

DESCRIPTION OF BUILDING HOUSING THE FACILITY

1. Total square footage: ______________________________

2. Hours building is open: ______________________________

3. Days of week building is closed: ______________________________

4. Holidays building is closed: ______________________________

5. This building is owned by: ______________________________

6. This building is leased by: ______________________________

7. This building is directly controlled by: ______________________________

8. If leased, what is the term of lease and/or expiration date? ______________________________

   ____

9. Does the building have any physical limitations in relation to the proposed facility? ______________

   ____

10. Are there rules or regulations that would affect the operation of the proposed facility? ______________

    ____

11. What, if any, changes for this building (remodeling, enlargement, general changes?) ______________

    ____

FEASIBILITY OF FACILITY

1. Total square feet of proposed facility: ______________ Adequate? ______________

2. Total square feet of serving areas: ______________ Adequate? ______________

3. Total square feet of storage space: ______________ Adequate? ______________

4. Length of service/display area: ______________ Adequate? ______________

5. Overall, does the proposed area and site appear adequate for the projected volume of sales and customers? ______________

   Comments: ______________________________

   ____

   ____

   ____

6. Can the facility be easily found/seen by both employees and visitors? ____________________

Is access adequate? ________

Comments on any noted problems: ____________________

____

____

7. Will the facility have adequate:

Heating?	____	Electrical Requirements?	____
A/C?	____	Plumbing facilities?	____
Rest Rooms?	____	Security?	____
Fire alarm system?	____		

8. Will deliveries to the facility present a problem to the functions within the building? ____________

9. Where will deliveries be made? ____________________

10. Who will perform cleaning/maintenance for the facility? ____________________

11. Who will be responsible for trash removal? ____________________

12. Is there a recycling program in place? ____________________

13. Have all applicable requirements of state/local health departments been met at this location and facility? ____________________

COMPETITION

1. What is the competition, planned or actual, that will be in direct or indirect competition within this building to the proposed facility? ____________________

____

2. What is nearest competition outside the building?: ____________________

____

Distance from building: ____________________

Time it takes to walk: ____________________

Types of items sold: ____________________

Sample items sold and prices: ____

Comments on Competition: ____

3. What effect, do you feel, will competition have on proposed facility? ____________________

4. Any other competition in area that would have effect on proposed facility? Comments: ________________

5. General comments, recommendations and conclusions regarding proposed facility. ________________

SURVEY OF LOCATION
BUSINESS ENTERPRISE PROGRAM

Owner of Premises: Federal ____ State ____ County ____ Municipality ____ Private ____

Name of Department, Agency or Corporation operating premises: ________________________________

____

Name and Title of Official in Charge of Premises: ________________________________

____

Mailing Address of Location: ________________________________

Street Address of Location: ________________________________

Description of the Location of the Vending Facility on the Premises: ________________________________

____

Type of Vending Facility: Inside _________ Outside __________

Is location easily accessible to potential customers? ________________________________

I. Number of Persons Having Access to Proposed Vending Facility:

A. If in a building - average daily number:

(1) Employees in building ____________________

(2) Employees on premises ____________________

(3) Visitors to premises ____________________

B. If in a hospital - average number of days:

(1) Patients in hospital ____________________

(2) Employees and staff of hospital ____________________

(3) Visitors to hospital ____________________

C. If outside location - average number of days:

(1) Persons passing location during business hours ____________________

D. Total number of persons having access to the location ____________________

II. Environment of Location:

A. Population of city or urban community ______________________________

B. If in a rural community, population within a radius of _____ miles ______________________________

C. Competing businesses within 500 feet of location and description: ______________________________

____

____

D. Can other stands or businesses be installed on or near the premises without detriment to this location? __________________________

III. Operating Conditions:

A. Types of Merchandise to be sold: ____

____

____

B. Vending Facility is to be open ____________ days per week.

C. Hours: From _________________ to _____________________

IV. Procurement of Location:

A. Method: Lease ________ Permit ________ Agreement ___________

B. Basis for Renewal of Arrangement:

Automatic _____ Negotiation _____ Mutually Satisfactory Operation _____ Other _____

Remarks: ____

____

____

V. Special conditions which must be observed, i.e., local laws, regulations, lessor requirements.

____

____

____

____

VI. Operating Expenses (estimated) for this location:

A. Rent, on basis of _______________ per _______________ $ ___________________________

B. Cost of help: Number blind __________ Number sighted ____________
Per four-week period $ ___________________________

C. Other overhead: Heat, Light, Taxes, License, etc.
Estimate amount of each and show total per 4-week period $ ___________________________

VII. Earnings for Vendor:

A. Gross Sales: (1) Actual for four-week period $ ___________________________

(2) Potential for four-week period $ ___________________________

B. Profits: (1) Actual for four-week period $ ___________________________

(2) Potential for four-week period $ ___________________________

VIII. Total Estimated Cost of Establishing Facility:

A. Total Equipment $ ___________________________

B. Total Stock and Supplies $ ___________________________

C. Total Architect's Fee $ ___________________________

D. Total Plumbing and Electrical Connections $ ___________________________

E. Licenses $ ___________________________

F. Initial Liability Premium $ ___________________________

G. Initial Month's Rent $ ___________________________

H. Other $ ___________________________

TOTAL ESTIMATED COST OF FACILITY $ ___________________________

IX. Fixtures and Equipment:

A. Estimated cost of removable fixtures and equipment $ ___________________________

B. Labor and Materials for fixtures and equipment which would have to be left on premises $ ___________________________

X. Description of fixtures and equipment required for location:

____

____

____

____

XI. Merchandise Inventory:

A. Present, actual or estimated $ ____________________

XII. Feasibility of Location for a Blind Vendor:

A. Is the vending facility conveniently and safely accessible to a blind vendor? ____________________

B. Is sighted assistance (protective or other) available in the event of emergency? ____________________

XIII. Feasibility as an investment of Program Funds:

A. Do you consider this location a sound investment of program funds from the following standpoints?

	Yes	No
(1) Length of time location will be available?	____	____
(2) Cost of fixtures - equipment, stock, etc.?	____	____
(3) Returns to the Vendor?	____	____
(4) Returns to the Agency on investments?	____	____
(5) Accessibility and cost of providing services and supervision by the Agency?	____	____

REMARKS: ____

____

____

____

______________________ ______________________________

Date Signature

DEPARTMENT OF EDUCATION
OFFICE OF SPECIAL EDUCATION AND REHABILITATIVE SERVICES
WASHINGTON, DC

<u>APPLICATION AND PERMIT FOR THE ESTABLISHMENT OF A VENDING FACILITY ON FEDERAL PROPERTY</u> AS AUTHORIZED BY P.L. 74-732, AS AMENDED BY P.L. 83-565 AND TITLE II OF P.L. 93-516 (RANDOLPH-SHEPPARD ACT)

The ____ (designated State Licensing Agency) of the State of ____ requests approval of ____ (Federal Property Agency) to place a vending facility on the property located ____ ____.

<u>Satisfactory Site:</u> It has been determined that this location meets the criteria of a satisfactory site as defined in 34 CFR 395. Any exceptions are documented in Attachment A.

<u>**Type, Location, and Size of Facility:**</u> Type of facility (defined in instructions for Form OHD-RSA 15): __________________________________; Facility location ______________________ __________________________________; Facility Size __________(floor plan, Attachment B). The types or articles to be sold and services to be offered as enumerated in Attachment C. The fixtures and equipment for this facility, including the responsibility for the provision thereof, are set forth in Attachment D. The location, type, and number of vending machines which constitute all or part of this facility are noted in Attachment E. The facility will operate ____ days of the week from ____ A.M. to ____ P.M. commencing on ____________________________.

<u>**Machine Income Sharing:**</u> The type and location of each vending machine located on the property and the specific income sharing provisions in 34 CFR part 395 applicable to each such machine will be indicated in Attachment F. Vending machine income will be disbursed to the State Licensing Agency on at least a quarterly basis, unless it is mutually agreed otherwise.

<u>**Other Terms and Conditions:**</u> Both parties shall comply with 34 CFR part 395. Any additional terms and conditions applicable to this location are included in Attachment G. This permit shall be issued for an indefinite period of time subject to suspension or termination on the basis of noncompliance by either party with any of the agreed upon terms and conditions of the permit. By mutual agreement the State Licensing Agency and the property agency/owner may terminate the permit after providing notice of the intended termination, including the reason therefor and supporting documents to the other party. Both parties shall comply with all regulations issued in Title VI of the Civil Rights Act of 1964. Reason for denial of the application shall be set forth in writing to the State.

______________________________	______________________________
Approving Property Official	Approving Licensing Agency Official
______________________________	______________________________
Title Date	Title Date

ATTACHMENT A

APPLICATION AND PERMIT FOR A VENDING FACILITY ON FEDERAL PROPERTY

Exception(s) to Satisfactory Site Guidelines

ATTACHMENT B

APPLICATION AND PERMIT FOR A VENDING FACILITY ON FEDERAL PROPERTY

Working Drawing of Vending Facility Floor Plan

ATTACHMENT C

APPLICATION AND PERMIT FOR A VENDING FACILITY ON FEDERAL PROPERTY

Types of Articles to be Sold/Services to be Offered

ATTACHMENT D

APPLICATION AND PERMIT FOR A VENDING FACILITY ON FEDERAL PROPERTY

Fixtures and Equipment to be Installed

ATTACHMENT E

APPLICATION AND PERMIT FOR A VENDING FACILITY ON FEDERAL PROPERTY

Number and Type of Vending Machines

ATTACHMENT F

APPLICATION AND PERMIT FOR A VENDING FACILITY ON FEDERAL PROPERTY

Type and Location of Vending Machines (For Income Collection Purposes)

ATTACHMENT G

APPLICATION AND PERMIT FOR A VENDING FACILITY ON FEDERAL PROPERTY

Any Deviation from 34 CFR Stipulations

AGREEMENT FOR OPERATIONS OF A VENDING FACILITY
UNDER THE RANDOLPH-SHEPPARD ACT
BETWEEN
______________________(NAME OF AGENCY)____________________,
BUSINESS ENTERPRISE PROGRAM, STATE LICENSING AGENCY
AND
____________________________, A LICENSED BLIND VENDOR

THIS AGREEMENT entered into this ________ day of __________________, 19 ____, by and between , State Licensing Agency (hereinafter SLA),

and ___________________________, licensed as a blind vendor under the Randolph-Sheppard program (hereinafter, vendor) by the SLA, WITNESSETH:

WHEREAS, the SLA has been granted a permit by ____________________________, for the operation of a vending facility by a licensed blind vendor under the Randolph-Sheppard program (hereinafter, permit) in the (federal property) (non-federal property) located at _________________ ____, a copy of which permit is attached hereto and made a part hereof; and,

WHEREAS, the SLA has offered the vendor the opportunity to operate the vending facility under the terms and conditions hereinafter set forth; and,

WHEREAS, _______________________, is qualified by law to be a vendor, he/she being declared legally blind as a result of information reported by a licensed practitioner of eye care, with an ______% loss of vision efficiency or a visual acuity measurement of ____________________; and,

WHEREAS, the vendor has agreed to undertake the operation of the vending facility under the terms and conditions hereinafter set forth; and

WHEREAS, the parties do not intend to derogate in any way from responsibilities and right imposed and grated by applicable federal, state or local law or regulations by this agreement.

NOW, THEREFORE, in consideration of the premises, it is mutually agreed as follows:

A. The SLA.

1. The SLA will equip the vending facility for carrying out the business authorized by the permit.
2. The SLA will furnish initial stocks of merchandise sufficient to enable the vendor to commence operating the business authorized by the permit. The SLA will also furnish the vendor with a complete inventory of all equipment and initial stocks.
3. The SLA will maintain the equipment at the vending facility in good repair, and will replace obsolete and worn-out equipment as necessary.
4. The SLA will provide management and supervisory services necessary for the efficient operation of the vending facility.

B. THE VENDOR

1. The vendor will be responsible for having the vending facility open for business on the days and during the hours specified in the permit.

2. The vendor will operate the vending facility business on a cash basis except for such credit accounts as may be established or authorized by the SLA.

3. The vendor will be accountable to the SLA for the proceeds of the business of the vending facility, and will handle the proceeds, including payments to suppliers and deposits of funds, in accordance with instructions from the SLA.

4. The vendor will carry on the business of the vending facility in compliance with applicable health laws and regulations.

5. The vendor will maintain a neat business-like appearance while working at the vending facility, and will conduct the facility in an orderly, business-like manner.

6. The vendor will take proper care of the equipment of the vending facility, and will make alterations or changes therein only with written approval of the SLA.

7. The vendor will notify the SLA a reasonable time in advance of taking any voluntary leave from the vending facility, and as soon as possible with respect to any involuntary leave.

8. The vendor will keep such records and make such reports as the SLA shall require.

9. The vendor will provide for substitute operation of the vending facility as may be necessitated by the vendor's absence because of illness, vacation, or otherwise. The salary of the person who substitutes for the vendor, or that of other emergency help, shall be paid by the vendor.

10. The vendor agrees to enter his/her facility at his/her own risk. The responsibility for injury he/she may receive and all related expenses will be assumed by the vendor.

C. **GENERAL**

1. The business to be carried on at the vending facility will be limited to that specified and authorized in the permit.

2. The right, title, and interest in and to the equipment of the vending facility, the stock in trade, and funds on hand are vested in the SLA, and will be left at the vending facility or turned over to the SLA on the termination of this agreement for any reason by either of the parties. In such an event, the SLA will conduct an inventory to determine the wholesale value of stock in trade, cash on hand, and presence of the equipment. This will be compared with the inventory done at the time the vendor took the facility. If the fair wholesale value of merchandise exceeds the initial cost, the surplus will be paid to the operator, his/her heirs, or assignees. Should it be less, the deficit will be due and payable to the SLA at the completion of the inventory.

3. The monthly income of the vendor shall be the net profits of the business of the vending facility for the period in question, less the funds which must be set aside.

4. Rebates, commissions, or bonuses received by the vendor from suppliers are, and must be accounted

for as income of the vending facility. Under no circumstances are such funds to be treated as the separate, personal funds of the vendor.

5. Merchandise taken from the stock in trade of the vending facility by the vendor for his/her own personal use shall be accounted for by the vendor and paid for at retail prices.

6. The business and premises of the vending facility shall be covered by public liability insurance and any such other insurance required by permit or law. The cost of such insurance shall be a cost of operating the business of the vending facility and taken into account as such in determining the net proceeds of the business.

7. This agreement may be terminated any time by the vendor. It shall be terminated upon the revocation or termination of the permit or contract. In addition, it may be terminated by the SLA if the business of the vending facility is not conducted in accordance with this agreement, or with applicable federal, state, or local laws and regulations.

8. I certify that the foregoing document has been read by me, and that I understand and agree with its contents. I also understand the provisions of the lease or permit and the SLA rules and regulations. I understand that I have the right to an administrative review of any state agency actions with which I am dissatisfied. If such review does not resolve the matter to my satisfaction, I can request a full evidentiary hearing. Any such requests on the vendor's part shall be made in writing addressed to the SLA, within fifteen (15) days of notice of agency action.

______________________	______________________
Operator	Date
______________________	______________________
Business Enterprise Officer	Date
______________________	______________________
Witness	Date

CONCESSIONAIRE AGREEMENT

THIS INDENTURE, made and entered into on this day __________, 19____, by and between ____***(Name of Company or Agency)***____, ___***(City)***___, ___***(State)***___, qualified to do and doing business in the State of ______________, party of the first part, hereinafter designated as the "owner," and the __(State Licensing Agency)__, Business Enterprise Program (BEP), (said party being an instrumentality of the State of _______________), party of the second part, hereinafter designated as the "agency."

WITNESSETH:

1. That the owner, in consideration of the covenants, conditions, agreements and stipulations of BEP, as hereinafter expressed and contained in this agreement, does hereby demise and grant unto BEP all concession rights in their facilities located in ______***(City)***______, _____***(State)***_____, having a term of three (3) years commencing on the execution date of this agreement.

2. The owner covenants to give to BEP full and sole concession rights in the buildings hereinafter mentioned. It is expressly understood and agreed that the owner will supply without charge the necessary space and utilities for such equipment as might prove necessary throughout the facilities.

3. The demised premises shall be used by BEP during the term of this agreement for the purpose of conducting a vending location for the sale to or for the benefit of the owner's employees, visitors, invitees, and licensees, of cigarettes, soft drinks, coffee, milk, nabs, candy, pies, cakes, cookies, and other related items of food or drink that the parties hereto agree upon. It is expressly understood and agreed that BEP will select, subject to the approval of the owner, __***(Name of Company or Agency)***_____, ____***(City)***____, _____***(State)***_____, the items to be sold. Prices for the merchandise sold will be kept in line with prices charged in the vicinity. A list of sale prices shall be furnished by BEP, whenever requested by the owner. It is further understood that no liquor or beverages with an alcoholic content, controlled substances, gambling, punch boards, or other forms of gambling, shall be allowed, permitted or sold on the demised premises. The store/snack operation shall be available at such times as owner shall determine.

4. It is agreed that BEP will furnish all equipment, stocks and supplies, for establishing and maintaining this concession operation and will pay the installation and maintenance cost subject to the availability of funds. The owner agrees to provide and maintain all lighting fixtures, walls, ceilings, floors, plumbing and climate control equipment in the snack bar area. The stock maintained by BEP shall be adequate to meet the demands of owner's employees and shall be of good quality and reasonably fresh. The title to the equipment, stock, and supplies will remain with BEP, and supervision will be provided by BEP for the visually handicapped workers.

5. It is agreeable that if the concession operations should be relocated on the demised premises at the owner's written request, suitable drains, vents and utility service, and outlets will be provided by the owner. BEP agrees to pay for the moving and reconnecting of the equipment and necessary appliances.

6. It is agreed that the vendor operating a vending facility on the business premises of the owner will carry comprehensive general liability insurance in the amount of $300,000 for bodily injury liability, and $100,000 property damage liability to protect the owner and said vending facility due to injury arising out of the operation of said vending facility.

7. BEP covenants not to make repairs, changes, and/or alterations to the demised premises without the consent of the owner.

8. The owner shall furnish BEP, during the occupancy of the demised premises, under the terms of this agreement, all required utility services.

9. The owner shall, unless herein specified to the contrary, maintain the demised premises in good repair and tenantable condition during the continuance of this agreement, except in the case of damage arising from the act or negligence of the BEP (or BEP's employees.) For the purpose of so maintaining the demised premises, the owner reserves the right to enter and inspect the demised premises at all reasonable times and to make any necessary repairs to the building. BEP shall, at its own expense, provide waste containers for rubbish and unsightly matter within the store/break area with janitorial service to be provided by owner in all other locations. BEP shall at all times, do all things reasonably necessary to protect said premises from fire and fire hazards.

10. In the event the demised premises or any essential part thereof shall be destroyed by fire or other casualty, this agreement may be terminated at the option of

either party upon giving notice in writing to the other party within ten (10) days after such fire or casualty.

11. BEP covenants and agrees at the termination of this agreement to yield up the demised premises in good repair and condition except for normal wear and depreciation.

12. This agreement shall remain in force for three (3) years unless sooner terminated as herein provided. It shall thereafter renew itself automatically for one (1) year periods until notice of termination in writing is given by either party by registered mail at least thirty (30) days prior to the expiration of the Agreement or any renewal of it.

Notwithstanding any other provisions contained herein, either party hereto may terminate this agreement at any time during the term hereof by giving notice of such termination to the other at least thirty (30) days prior to the date when such termination shall become effective. The provisions of this agreement may be altered, changed or amended by mutual consent of the parties pursuant to written notice by certified mail.

13. All notices herein provided to be given, or which may be given by either party to the other, shall be deemed to have been fully given when made in writing or deposited in the United States Mail, registered and postage prepaid, and addressed as follows ________________***(SLA)***____________________, Business Enterprise Program, ___***(Address)***___, ___***(City, State and Zip)***___, and to the owner, __________***(Name of Company or Agency)***______, ___***(Address, City, State, Zip)***___. The address to which the notices shall or may be changed by written notice given by such party to the other, as hereinbefore provided; but nothing herein contained shall preclude the giving of such notice by personal service.

14. The Business Enterprise Program shall train and select the vendor to manage this facility.

15. This agreement shall be in force pursuant to all applicable federal and state laws. Should any section of this agreement prove contrary to State law, that section shall be null and void, and all other sections shall remain in full force and effect.

It is so attested that this is a true and correct copy of the foregoing agreement among the aforementioned parties.

____

Company or Agency

____

Company or Agency Official

____

Notary Public

____

My commission expires on:

____

(State Licensing Agency)
Business Enterprise Program

____

Director

____

Notary Public

My commission expires on:

TRAINEE EVALUATION REPORT

Manager Trainee ______________________________ ***Dates of Training***

O-J-T Trainer ______________________________ From ________________

Vending Facility Number ______________________ To ________________

Address ____

Evaluate the trainee in each category, on a scale from "1" (unsatisfactory) through "9" (exceptional). <u>If an individual is scored from 1-2 or 8-9 in any category, explain the score.</u> In the Remarks section, include additional remarks you deem necessary, with a recommendation as to whether the person being evaluated should be allowed to progress with training.

	Score	
1.	________	Verbal Communication
2.	________	Personal Appearance/Grooming
3.	________	Housekeeping/Sanitation
4.	________	Ability to Handle Money and Negotiate Transactions
5.	________	Customer Relations
6.	________	Ability to Understand Instructions
7.	________	Follows Instructions
8.	________	Completes Tasks
9.	________	Works Without Supervision
10.	________	Works With Other Employees
11.	________	Punctuality
12.	________	Initiative
13.	________	Business Sense
14.	________	Positive Relationship with Employees
15.	________	Mobility Skills
16.	________	Attendance
	________	**TOTAL SCORE**

Remarks:

Check One:

Trainee is ( ) is not ( ) recommended for Continued Training.

EXPRESSION OF INTEREST IN AVAILABLE VENDING FACILITY

This bid proposal must be completed, signed and returned to B.E.P. Office at ______________________________ on or before ______________________________.

OFFER TO ACCEPT AWARD

I, ________________________, hereby offer to accept the award of the facility described in the announcement letter dated __________________________ and identified below. If awarded this facility, I agree to operate in compliance with all existing rules, regulations and policies governing the vending facility program and any existing permit, lease, or agreement between the ________***(SLA)***________ and the approving property official.

Vending Facility ____

Location ____

______________________________________ ______________________________
Signature Date

APPLICATION FOR SELECTION, TRANSFER OR PROMOTION

I hereby submit my request to be considered for selection, transfer, or promotion.

1. Name ________________________________ BEP# ________________
2. Mailing Address ____
3. Position Applied For ____________________________________
4. (State) BEP experience:

Date: (From - To)	***BEP#***

5. Other BEP experience:

Date: (From-To)	***Type of Location***	***Facility***	***Average Monthly Gross***

6. Relevant Work Experience:

Date: (From-To)	***Employer***	***Job Title***	***Duties***

7. Education: High School Graduate [ ] yes [ ] no
College Graduate [ ] yes [ ] no

Relevant Courses Taken: ____________________________________

____________________ ______________________________

Date Operator

For SLA Use Only:

____________________ ______________________________

Date Business Enterprise Officer

Handout: Business Card ___ Brochure ___

Other ______________________

EMPLOYER CONTACT REPORT
Business Enterprise Program

Firm Name: ____

Mailing Address: ____

Street Address: ____

Person Contacted: ____________________ Title: ______________________________

Telephone Number: ____

Type of Product or Service: ____

Number of Employees: __________ Number of Shifts: ____________________ # Days Worked:

Type of Vending Facility Required: Vending Machine ___ Cafeteria ___ Snack Bar/Wet Dry __________

Name of Present Food Service Company: ______________________________________

Contact Narrative: ____

____

____

____

____

Follow-up contact needed ( ) Date ______________________________________
Not needed ( )

		Federal	Nonfederal
1.	Accepted for Vending Facility Site	________	________
2.	Not Accepted Due to Infeasibility of Site	________	________
3.	Not Accepted Due to Lack of Fund by State Agency	________	________
4.	Denied by Property Management Officials	________	________
5.	Not Accepted Due to Lack of Qualified Vendors	________	________

BEP Counselor	Date	Regional Director	Date

REQUEST FOR BUREAU PURCHASE OF EQUIPMENT

TO: Head, State Licensing Agency

I hereby request that the SLA purchase, for use in my assigned BEP facility, the following equipment:

____

____

____

This requested item is [ ] is not [ ] to replace existing equipment. This request has become necessary because:

____

____

____

____

______________________________ ______________________
Operator's Signature BEP Number

____
Date

For SLA Use Only:

This request is approved [ ], approved pending funding [ ], denied [ ].

The equipment is considered to be unnecessary [ ], unsuitable [ ], or not financially feasible [ ].

______________________________ ______________________
Authorized SLA Representative Date

REQUEST FOR AUTHORITY TO PURCHASE

____________ ____________
Dept. No. Request No.

From: ____

____
Address

We hereby request "Authority to Purchase" the following commodity or commodities covered by Purchasing Regulations.

QUANTITY	NAME OF ITEM	DESCRIPTION AND COMPLETE SPECIFICATIONS	PRICE EACH	TOTAL
		To be shipped to ________________________________ Address or Location		

The following bids have been received ( ) after advertising; ( ) by solicitation, and copies of aid bids are attached hereto.

NAME AND ADDRESS OF BIDDER	AMOUNT OF BID	AGENCY PREFERENCE	TYPE OF TRANSACTION
			( ) Purchase ( ) Rental For ___ mos. ( ) Lease/purchase For ___ mos.
			For Use With Leases or Rentals Only THE ORIGINAL COPY OF THIS FORM IS ON FILE WITH THE OFFICE OF FISCAL MANAGEMENT. PLEASE SUBMIT A PURCHASE ORDER EACH MONTH FOR THE MONTHLY LEASE OR RENTAL CHARGE AND REFER TO NO. ______________________________________

( ) See reverse side of yellow copy for signed certification.

Attach the following:
( ) Copy of bids (Minimum of 2 written bids required if purchase is over $500.00.)
( ) Proof of advertising - including copy (if purchase is over $2500.00)
( ) Statement containing reason for agency preference and such other information as agency deems pertinent.

Submitted by

APPROVED: Date ___________________________

____
PURCHASING AGENT

By ____
OFFICE OF PURCHASING

INSTRUCTIONS: Send three copies to Office of Purchasing. The Office of Purchasing will return two copies (White and Green). The Agency will attach one copy (White, Original Copy) to purchase order. The Agency will retain one copy for their records.

REQUEST FOR APPROVAL TO ACQUIRE EQUIPMENT BY OPERATOR

TO: Head, State Licensing Agency

I hereby request the approval of the SLA to allow me to acquire, for use in my BEP facility, at my own expense, the following equipment:

1. Description ____
____
____

2. Cost (Purchase Price, or monthly payment is leased, copy attached). ____________________
____

3. Term of Warranty ____

4. Reason for Request ____
____

I understand that repair and maintenance of this equipment will be my responsibility. I further understand that, without SLA approval, the cost of this acquisition and any subsequent costs of repair and maintenance, will not be an allowable deduction as an operating expense.

____ ____________________
Operator's Signature BEP Number

Date: ____________________

For SLA Use Only:

Having discovered no apparent detriment to the SLA, this request is approved [ ] and the assigned depreciation term is [ ] months.

This request is denied [ ], it having been determined that this equipment is unnecessary [ ], unsuitable [ ], or not financially feasible [ ].

REQUEST FOR AUTHORITY TO DISPOSE OF PROPERTY

Date ______________________

______________ Dept. No. ______________ Request No.

From ____
Address

We hereby request authority to dispose of the following property.

Section I. Description ______________________ State Inventory No. ______________

Mfr. Serial No. ____________ Make ____________ Model ______________

Date Purchased ______________ Cost ____________ Mileage ______________

Condition ____

Reason for Disposal ____

Section II. Method of Disposal: ________ Transfer ________ Sale ________ Trade-In

Transferred, Sold, or Traded To:

____
Name

____
Address

Sale Price $______________

Trade-in Value $______________

Section III. I certify that the information contained herein and attached hereto is correct and in accordance with the records maintained by this agency.

____
Property Officer

Authorization to Dispose

______________ Date

______________________________ Office of Purchasing

______________ Date

______________________________ Office of Purchasing

SPECIAL INSTRUCTIONS

Send all copies to Office of Purchasing. If approval is granted, the green copy will be returned to the agency, and the yellow copy will be sent to the State Property Control Division.

WHEN TRANSACTION IS COMPLETED: Obtain receipts from buyer showing amount paid or allowed, and send same to the Division of Property Control.

REQUEST TO HIRE A FAMILY MEMBER

FROM: BEP# ____________________ DATE: ________________

TO: SLA

I hereby request to hire ______________________, who is my ____________________,

to fill the following position at my BEP facility:

1. Job Title: ____
2. DOT Code: ____
3. Hours: ____
4. Starting Wage: ____

This position requires the employment of a family member because:

____

____

____

BEP# ________________________

FOR BUREAU USE ONLY:

[ ] Request Approved

[ ] Request denied because ______________________________________

____

__________________ ____________________________________
Date Authorized SLA Representative

Physical Inventory Form

Page ______ of ______

Physical Inventory ________________ 19 ________________

Classification	Item	Unit	Qty.	Unit Price		Total Cost	

PERPETUAL INVENTORY CARD

RECEIVED						ISSUED						
Date	Received From	Qty.	Unit	Price	Amount	Date	Issued To	Req. No.	Qty.	Amount	Balance	
											Qty.	Amount

CLOSING INVENTORY

LOCATION: ______________________________ DATE: ____________________

OUTGOING OPERATOR: ____

INCOMING OPERATOR: ____

INVENTORY TAKEN BY: ____

ITEM	COUNT/UNIT	COST/UNIT	EXTENSION

Closing Inventory
(Last Page)

SIGNATURE OF OUTGOING OPERATOR ______________________________
(If no signature, state reason below.)

SIGNATURE OF INCOMING OPERATOR ______________________________

SIGNATURE OF PERSON TAKING INVENTORY ______________________________

<u>NOTE FOR INCOMING OPERATOR</u>

In signing this agreement, I understand that the total wholesale value of goods and/or supplies as counted on this inventory, when extended will be chargeable to me as part of a stock and/or inventory loan and must be repaid to the State Licensing Agency.

____
Signature

REPORT TO BEP OPERATORS
STATEMENT OF REVENUES AND EXPENSES
OCTOBER 1, 19_________ - DECEMBER 31, 19__________

Cash in banks and the State Treasury, October 1, 19__________		$129,448.23
Revenues:		
Interest earned, banks	$825.21	
Finance charge del. accts.	540.48	
V.M. income, Federal property	251.24	
V.M. income, State property	2,092.12	
Unassigned V.M. income-NFFP	82.12	
Commission (FA-26)	39,010.04	
State funds	40.36	
Federal funds	125,939.01	
	$168,780.61	
		$168,780.61
Total funds available (all sources)		$298,228.84

* * * * * * * * * * * * * * * * * * * *

		Set-Aside Funds	State Funds	Federal Funds		Total
Expenses:						
Salaries		16,591.97	40.36	55,412.49		72,044.82
Statistical		628.20		2,512.80		3,141.00
Rent	517.98			1,762.66		2,280.64
Travel		708.00		2,610.20		3,318.20
Telephone		372.82		1,222.82		1,595.64
Gas & Truck Repairs		277.72		705.98	983.70	
Management Services		1,798.72		6,895.41		8,694.13
Equipment		13,614.93		54,459.71		68,074.64
Office Supplies		100.07		302.14	402.21	
Postage		18.15		54.80		72.95
Equipment Repairs	9,041.28					9,041.28
		43,669.84	40.36	125,939.01		169,649.21

Total Expenses 169,649.21
Add: Late transfer of fund to Agency, December, 19_____ 18,976.85
Less: Set-Aside funds transferred to Agency, prior quarter .... -13,229.29
Accounts payable .... -164.30
Actual cash balance in banks and the State Treasury, December 31, 19____ $134,162.89

Cash Accounts:	Checking	$52,698.07
	Saving-CDs	79,092.80
	State Treasury	2,372.02
	Bal. per books	$134,162.89

To: All Business Enterprise Program operators
From: ____________________________________, Director

Should any of you have any questions about this report, please feel free to call any Business Enterprise official.

VENDING FACILITY PAYROLL REPORT

OPERATOR'S NAME	WEEK ENDING	FACILITY LOCATION	FACILITY ADDRESS

Employee Name	Address	Social Sec. No.	Hours	Rate/ Hour	Gross Wages	Social Security	Fed. Tax	State Tax	City Tax	Misc.	Total W/H	Net Amt. Paid

BUSINESS ENTERPRISE PROGRAM PROFIT AND LOSS STATEMENT

VENDOR ______________________ FACILITY __________________________________

FOR MONTH OF ______(Month)________, __(Year)__, and CALENDAR YEAR TO DATE

	MONTH	YEAR TO DATE
Total Gross Sales	$ ________________	$ ________________
Non-Taxable Income	$ ________________	$ ________________
Less Sales Tax Collected ____%	$ ________________	$ ________________
Total Net Income	$ ________________	$ ________________
Total Purchases for Resale	$ ________________	$ ________________
Gross Profit	$ ________________	$ ________________
Gross Profit Percentages	________________%	________________%
COST OF SALES		
Salaries (To Others)	$ ________________	$ ________________
(To Family)	$ ________________	$ ________________
Rent	$ ________________	$ ________________
Phone	$ ________________	$ ________________
Utilities	$ ________________	$ ________________
Vendor's Portion FICA Tax	$ ________________	$ ________________
State Unemployment Tax	$ ________________	$ ________________
FUTA Tax	$ ________________	$ ________________
Losses Due to Spoilage and Theft	$ ________________	$ ________________
Miscellaneous Help & Contract Labor	$ ________________	$ ________________
Laundry, Janitor Supplies, Misc.	$ ________________	$ ________________
Liability Insurance	$ ________________	$ ________________
Worker's Compensation Insurance	$ ________________	$ ________________
Employees Health Insurance	$ ________________	$ ________________
Net Proceeds	$ ________________	$ ________________
Set-Aside to Business Enterprise ___%	$ ________________	$ ________________
Net Profit	$ ________________	$ ________________
Net Profit Percentage	________________%	________________%
Net Profit Including Salaries to Family Members	$ ________________	$ ________________

Facility No. _____________ Vendor ___________________________________ Facility Name ____________________________

RECORD OF SALES AND EXPENDITURES

Day of Week	Date	Over-Counter Sales	Vending Sales	Other Income	Misc. Expense	Personal Use	Other - Describe
Sunday							
Monday							
Tuesday							
Wednesday							
Thursday							
Friday							
Saturday							
TOTALS							

WEEKLY FICA SHEET

Employee Name	Soc. Sec. No.	Gross Wages	FICA Tax	Federal Tax Withheld	State Tax Withheld	Net Wages
Weekly Totals: Must Balance Across						

MONTHLY OPERATING STATEMENT FOR MONTH ENDING ________________________

District ______________________ Manager ________________ Facility __________________

Location ________________________________ County ________________________________

Sales Tax (%) ______________________ CASH ON HAND $ ________________________

SALES Taxable (Include Tax)	Month Ended (________) Amount	%	Calendar Year-to-Date ( ) Amount	%	Federal Fiscal Year-to-Date (_______) Amount	%
(A) Direct (Z Tapes)						
(B) Vending Machines						
Less Sales Tax (A&B)						
Net Taxable Sales						
Non-Taxable Sales						
Other Revenue						
TOTAL INCOME						
EXPENSES						
Merchandise Purchased						
Supplies Purchased						
Other Expenses						
Workers Compensation						
Liability Insurance						
Employee Gross Wages						
Tax Reserve						
TOTAL EXPENSES						
Net Income, Direct Sales						
Admin. Fee on Sales						
COMMISSION INCOME						
Workers Compensation						
Liability Insurance						
Other Expenses						
Net Commission Income						
Admin. Fee on Commission						
NET INCOME FROM OPERATIONS						

MONTHLY OPERATING STATEMENT FOR MONTH ENDING
(Continued)

Amount Owed to State Licensing Agency

Previous Amount Due	$________________	Loan Balance:	$ ________________
Less: Received on Account	________________		________________
Late Penalty	________________	________________	________________
Sales Tax	________________	________________	________________
Adm. Fee/Sales	________________	________________	________________
Adm. Fee/Commission	________________	________________	________________
Workers Compensation	________________	________________	________________
Liability Insurance	________________	________________	________________
Health & Dental	________________	________________	________________
Other	________________	________________	________________
Loan Installments	________________	________________	________________

TOTAL AMOUNT DUE $ __________

MONTHLY SUMMARY OF FACILITY OPERATIONS - BUSINESS ENTERPRISE PROGRAM

NAME & ADDRESS OF FACILITY ____________ VENDOR ____________ FACILITY NO. ________

MONTH OF ____________, 19 ______	1st Week		2nd Week		3rd Week		4th Week		5th Week		Total	
Gross Over-the-Counter Sales												
Gross Vending Machine Sales												
Other Income												
Purchases for Over-the-Counter												
Purchases for Vending												
Gross Wages to Employees												
Gross Wages to Family												
Merchandise for Personal Use - Wholesale												
Losses Due to Spoilage and Theft - Wholesale												
Miscellaneous Expense												
Phone												
Newspaper Sales Included in Over-the-Counter Sales												

NET INCOME:

SET-ASIDE:

________ Profit X ________ % = ____________

________ ______ X __________ % = ____________

Set-Aside Due ____________

SALES TAX: ____________

________ = ______ X _____ % = ____________

Less 2% of 7% = ____________

Sales Tax Due ____________

ADD: ____________

____________ X _____% = ____________

TOTAL TAX DUE ____________

RENT:

____________ X __% = ____________

____________ X __% = ____________

____________ X __% = ____________

RENT DUE ____________

EMPLOYER'S FICA TAX ____________

___% St. Unemp. Tax ____________

DUE TO BUSINESS ENTERPRISE PROGRAM	**AMOUNT**
Set-Aside	
Rent	
Liability Insurance	
Liability Insurance - 5% SC	
Phone	
Utilities	
Worker's Comp. Insurance	
Worker's Comp. Insurance - 5% SC	
Late Payment Fee	
Late Report Fee	
Subtotal	
Other	
TOTAL DUE BEP	

BEP OPERATION EVALUATION

Operator _____________ Facility Location _____________ Facility Type ___________________

Date _______________ Return Visit Scheduled On _______________ Net Sales ___________________

Purchases _______ Earnings _______ As % of Profit ______ Wages & Expenses ___________________

E = Excellent S = Satisfactory P = Poor

I. FACILITY MANAGEMENT	**E**	**S**	**P**	**COMMENTS**
Operator Appearance				
Personal Habits				
Customer Relations				
Customer Service				
Participation and Cooperation				
Relationship with Jobbers				
Relationship with Lessor				
Relationship with Employees				
II. CLEANLINESS AND SANITATION				
Floors				
Tables, Chairs and Counters				
Trash Receptacles				
Vending Machines				
Other Equipment				
Safety				
III. MERCHANDISE				
Quantity of Stock				
Quality of Stock				
Display				
Pricing				
Purchasing Procedures				
Customer Service				
IV. EQUIPMENT				
Condition & Use of Equipment				
Preventative Maintenance				
RECORDS				
Promptness				
Accuracy				

***If poor, explain above nature of problem and proposed solution.**

____ ____

BEP Representative Facility Operator

EXPLANATION OF BEP OPERATOR REVIEW

FACILITY MANAGEMENT

Operator Appearance: Clean clothing without tears or excessive stains; clean hands and nails.

Personal Habits: Personal behavior is observed to be in accordance with general rules of etiquette. Personal hygiene is observed to be inoffensive and is socially acceptable in a situation of contact with the public.

Customer Relations: Customers are dealt with in a respectful, concerned, and courteous manner. Customers converse with employees.

Customer Service: Customers are served their food and receive the proper change promptly and without delay.

Participation and Cooperation: Operator participates in training and cooperates with BEP Representative; gets along with fellow operators; does not complain about the program to customers or other facility managers; and offers constructive criticism to the BEP Administrator.

Relationship With Jobbers: Jobbers are dealt with in a respectful, concerned, and courteous manner. Jobbers converse with employees.

Relationship with Lessor: Lessors are dealt with in a respectful, concerned, and courteous manner. Lessors converse with employees.

Relationship with Employees: Employees are dealt with in a respectful, concerned, and courteous manner. Employees converse with employees.

CLEANLINESS AND SANITATION

Floors: Floors are to be free of accumulated waste, surface dirt, grease, paper, etc. Evaluation should be adjusted according to the time of day.

Tables, Chairs, and Counters: All are clean and in good repair. Counters are clear, except for customer service items and merchandise displays.

Storage Areas: Food and non-food items are properly stored. Cleaning articles are not unnecessarily exposed. Enclosed areas are secured properly.

Trash Receptacles: All trash receptacles should have clean exteriors with proper liners. Trash should not be overflowing the containers.

Vending Machines: Exteriors are clean. Manager has notified proper authorities about units in need of repair, refurbishing, or replacement.

Other Equipment: Refrigerators, stoves, freezers, coffee makers, hoods, dishwashers, etc. are clean. Food products are stored properly at the correct equipment. Proper refrigeration and freezer temperatures are maintained with the thermostat properly located. Correct dishwasher temperatures are maintained. Proper sanitation procedures are followed. Garbage, rubbish, and receptacle products are stored in proper containers. Garbage disposals are operated properly and maintained. No evidence of insects or rodents are observed and proper measures are taken to maintain control. Sinks are clean. Soap and towels are within reach. Food service personnel are wearing proper hair restraints.

Safety: Floors are free of obstacles and electrical wires. Fire extinguishes are in food preparation areas and have been inspected within the past 12 months. Sufficient first aid supplies are available, and this location is known to all employees.

MERCHANDISE:

Quantity of Stock: Enough stock is maintained to prevent the operator from running out and to give customers enough buying variation. Portions are large enough to satisfy the customer and insure a fair return to the operator. Proper inventory procedures are used. .

Quality of Stock: The stock sold is what is specified in the permit for the facility. Products are at least standard quality and not older than their expiration dates. Prepared food must meet health standards and is attractively served.

Display: Counters, shelves and display equipment are clean and in good repair. Merchandise is displayed attractively and neatly. Counters, etc., are free of clutter and unnecessary materials.

Pricing: The operator has a fair mark-up to assure a fair return. Products are not overpriced or underpriced.

Purchasing Procedures: Proper purchasing procedures, specified by the SLA or State, are followed by the operator. The appropriate forms are used. Proper receiving and inventory procedures are used. .

Menu and Pricing: Prices posted are correct and easily seen by the customers. All products (including prepared foods) of the facility must be posted.

EQUIPMENT:

Condition and Proper Use of Equipment: All equipment is working safely and properly or the operator has placed calls for service. Equipment provided for the facility is to be used by the facility only. Equipment should be used for its intended purpose.

Preventive Maintenance: A schedule of preventive maintenance on all equipment is followed. A written record of equipment maintenance is maintained.

RECORDS:

Promptness: All financial records are kept and reports required by the SLA are on time. Sales tax and other fees are paid at the proper time.

Accuracy: All financial records and reports submitted by the operator are accurate. Operator follows specific procedures. Budgets are used to increase accuracy of financial management.

PLAN OF ACTION

GOAL: ____

____

Goal is attained when: ____

____

____

Specific Objectives to be Completed	Date to be Completed
By Facility Manager:	
By Counselor/Representative:	

PLAN OF ACTION
(Filled Out)

GOAL: Improving daily sanitation procedures by the Operator.

Goal is attained when: (1) The operator submits the daily inspection report each week for 4 consecutive weeks; (2) The checklist is completely filled out as each item is performed.

Specific Objectives to be Met	Date to be Completed
By Facility Manager:	
A. *Set aside time each day to follow cleaning procedures and fill out inspection report.*	*1 month*
B. *Complete all reports and give to representative each Wednesday.*	*1 month*
C. *Review reports and receive advice and training from representative.*	*1 month*
D. *Keep facility clean and perform daily sanitation procedures indefinitely with expectation of weekly unannounced spot checks by representative.*	*3 months*
By Counselor/Representative:	
A. *Set aside 1 hour every Wednesday to inspect facility and advise operator.*	*1 month*
B. *Review completed inspection reports with operator.*	*1 month*
C. *Perform weekly unannounced spot checks of facility to ensure proper sanitation procedures are followed.*	*3 months*

REQUEST FOR REVIEW OF GRIEVANCE

TO: State Licensing Agency

Having availed myself of the opportunities for an informal resolution of this matter, I hereby request that you formally review the following grievance which continues to my dissatisfaction:

A. Date of Grievance: ______________________________

B. Date of Informal Decision: ______________________________

C. Nature of Grievance: ______________________________

____

____

1. Issue: ______________________________

   Statement of Fact: ______________________________

   ____

   Statutes and Regulations: ______________________________

   ____

   Proposed Remedy: ______________________________

   ____

2. Issue: ______________________________

   Statement of Fact: ______________________________

   ____

   Statutes and Regulations: ______________________________

   ____

   Proposed Remedy: ______________________________

   ____

3. Issue: ______________________________

   Statement of Fact: ______________________________

   ____

Request for Review of Grievance
Continued

Proposed Remedy: ____

____

(Use additional sheets and attach documentation as necessary.)

DATE: ____________________ ______________________________

BEP # ____________________

FOR SLA USE ONLY:

Date Received: __________________________

Review: Date: __________________________

Time: __________________________

Place: __________________________

Operator has _______ has not _______ requested to attend.

GRIEVANCE PROCEDURE ROUTING SHEET

I. Receipt of Grievance

A. Operator Name: ______________________________

B. BEP Facility #: ______________________________

C. Nature of Grievance: ______________________________

____

D. Proposed Remedy: ______________________________

____

E. Committee Recommendation: ______________________________

____

DATE RECEIVED: ______________ BY: ______________________________
Authorized SLA Representative

Oral ______________ Written (copy attached) ______________

II. Action by BEP Representative

In this matter, I have taken the following action: ______________________________

____

DATE: ______________ BEP Representative ______________________________

Operator notified on: ______________ Committee notified on: ______________
Date Date

III. Action by Operator

Operator does ___ does not ___ agree with action by BEP Representative. Continuing complaints referred to BEP Manager on ______________ by ______________________.
BEP Representative

IV. Action by BEP Manager

A. Date Received: ______________

B. Date of Review: ______________

Operator did ____ did not ___ request interview. Operator did ___ did not ___ attend.

C. Date Written Decision Delivered to Operator ______________________________

D. Operator does _____ does not _____ agree with decision of BEP Manager.

BEP Manager ______________________________

COMMITTEE OF BLIND VENDORS
BEP REPRESENTATIVE EVALUATION

NAME OF BEP REPRESENTATIVE: ______________________________

RATING PERIOD: from ______________ to ______________

During this rating period, this BEP Representative has performed his duties in relation to my facility as follows:

	GOOD	FAIR	POOR
A. FACILITY MAINTENANCE			
1. Prompt response to repair calls:	____	____	____
2. Gets action on replacement equipment requests:	____	____	____
3. Prompt response to new equipment requests:	____	____	____
B. PROGRAM DEVELOPMENT			
1. Explains policies clearly:	____	____	____
2. Understands BEP regulations:	____	____	____
C. SPECIAL SERVICES			
1. Responds to request for assistance:	____	____	____
2. Provides merchandising advice:	____	____	____
3. Provides reporting advice:	____	____	____
4. Keeps me informed of BEP developments:	____	____	____
D. OVERALL RATING This BEP Representative is generally rated:	____	____	____

E. COMMENTS: ______________________________

____

____

____

DATE: ______________ BY: ______________________________

NOTE: Evaluation is completed by all operators served by the BEP Representative.

COMMITTEE OF BLIND VENDORS
BEP REPRESENTATIVE EVALUATION SUMMARY

BEP REPRESENTATIVE NAME: ____

RATED PERIOD: From ______________________________ To ____________________________

1. As a result of compiling the ratings submitted by the operators, the above-named BEP Representative is adjudged to his/her performed duties:

   Excellent ______ Satisfactory ______ Poor _______

2. Strong points: ____

   ____

   ____

3. Areas needing improvement: ____

   ____

   ____

4. Additional comments: ____

   ____

   ____

   ____

   ____

____________________ ____
Date Committee of Blind Vendors